

## Ecma By-laws (August 2024)

### Art. 1

#### Constitution and Head Office

##### 1.1

Ecma International - further called Ecma - is an international industry association based in Europe, and has been constituted according to these By-laws and Articles 60 et seq. of the Swiss Civil Code.

##### 1.2

The Headquarters of the Association is in Geneva.

### Art. 2

#### Purpose

##### 2.1

The purpose of the Association is to develop, in co-operation with the appropriate national, European and international organizations as a scientific endeavour and in the general interest standards and technical reports in the fields of information and communications technologies and to publish them free of charge.

##### 2.2

The Association shall be a non-profit-making organization and shall devote itself to no commercial activity whatsoever.

### Art. 3

#### Membership

##### 3.1

The Association shall consist of the following classes of Ecma members:

- a) Companies
  - ordinary members
  - associate members
  - Small and Medium sized Enterprises members (SME)
  - Small Private Companies members (SPC)
- b) Not-For-Profit organizations members (NFP)

Any other class of members shall be determined by the General Assembly with a two thirds majority of all ordinary members.

##### 3.2

- a) For non-SPC members:

A proposed company member shall not be accepted if it holds at least 50 per cent of the capital of an existing company member nor if at least 50 per cent of its capital is held by an existing company member.

- b) For SPC members:

A proposed SPC member shall not be accepted if it holds at least 50 per cent of the capital of an existing company member nor if at least 35 per cent of its capital is held by an existing company member.

##### 3.3

- a) For non-SPC members:

No two or more companies where at least 50 per cent of whose capital is held by the same company, which is not a company member itself, may be company members but shall be represented by one of these companies only.

- b) For SPC members:

No two or more SPCs where at least 35 per cent of whose capital is held by the same company, which is not a company member itself, may be SPC members but shall be represented by one of these SPCs only.

##### 3.4

Additional classes of Ecma members established according to Article 3.1 shall have such qualifications and be entitled to such rights and privileges and have such obligations as shall be determined by the General Assembly with a two thirds majority of all the ordinary members.

##### 3.5

Companies shall be admitted to any class of company membership in accordance with Art. 4.

##### 3.6

Membership fees for all classes of company membership are decided by the General Assembly with a two thirds majority of all ordinary members.

### **3.7**

Ecma membership shall be terminated in the cases set out in Art. 5.

### **3.8**

#### **Ordinary members**

#### **3.8.1**

Ordinary membership may be applied for by a company which has interest and experience in matters related to one or more Technical Committees of the Association, and which wishes to exert the right to vote at the General Assembly and to exert other exclusive rights defined in the By-laws and Rules, such as serving on the Executive Committee and as Chair of a Technical Committee.

#### **3.8.2**

The principal representative of each ordinary member, or in the principal representative's absence, its alternate representative, will have one vote in the General Assembly.

Voting rights may be exerted with effect from the first full month upon admission as Ecma member.

### **3.9**

#### **Associate members**

#### **3.9.1**

Associate membership may be applied for by a company which has interest and experience in matters related to one or more Technical Committees of the Association but without the right to vote in the General Assembly.

#### **3.9.2**

An associate member is fully entitled to participate in the work of Technical Committees and obtain all relevant papers.

#### **3.9.3**

Representatives of the associate members shall have the right to take part in the discussions of the General Assembly.

### **3.10**

#### **SME members**

#### **3.10.1**

SME membership may be applied for by a company the annual turnover of which is less than Swiss Francs 100'000'000. -

#### **3.10.2**

The rights of SME members are identical with those of associate members as specified in Art. 3.9.

### **3.11**

#### **SPC members**

#### **3.11.1**

SPC membership may be applied for by an organization - a company or other legal for-profit organization - with no more than 25 employees and a global annual turnover of less than Swiss Francs 10'000'000. -.

#### **3.11.2**

The rights of SPC members are identical with those of associate members as specified in Art. 3.9, with the exception that an SPC member is only entitled to participate in one TC.

### **3.12**

#### **NFP members**

#### **3.12.1**

Annual NFP membership may be applied for by a non-profit-making organization. Further yearly extensions of an NFP membership are possible, via application to the Secretary General by November of each year for the following year.

#### **3.12.2**

An NFP member is entitled to participate in the work of Technical Committees and may observe the discussion at the General Assembly.

## **Art. 4**

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### **Acceptance of a new Ecma member**

#### **4.1**

Application for membership and membership class shall be made to the Secretary General in a written notice carrying an authorized signature.

The application shall specify that the applicant has received the By-laws, the Rules, the Code of Conduct in patent matters and other Ecma IPR policies, and declare that it adheres to them without restriction.

#### **4.2**

Decisions on acceptance shall be made by the General Assembly with a two thirds majority of all the ordinary members. The accepted applicant shall indicate the Technical Committees in which they intend to participate.

## **Art. 5**

### **Termination of Ecma membership**

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#### **5.1**

a) Membership of a company shall be terminated in the following cases:

- Withdrawal by the company member:

Withdrawal by a company can only occur at the end of a calendar year and requires a written three-month notice carrying an authorized signature to the Secretary General (to be received by the Ecma Secretariat before 1 October).

- The company ceasing to exist.
- The conditions for membership set forth in Articles 3.2 and 3.3 of the present By-laws no longer being complied with.
- By expulsion for violation of By-laws and Rules or for any other conduct prejudicial to the interest and correct functioning of the Association.
- By expulsion after failure to pay the membership fee during the year in which it becomes due. This will happen automatically on 31 December and shall not relieve the member of the obligation to pay such fees that are due or past due according to the terms of the invoice. In justified hardship cases the Ecma management may extend - on a case by case basis - the membership payment deadline.

b) Membership of an NFP shall be terminated in the following cases:

- At the end of the year, unless extension of NFP membership has been granted by the Ecma GA.
- Withdrawal upon written notice to the Secretary General, to take effect upon receipt.
- The NFP ceasing to exist.
- By expulsion for violation of By-laws and Rules or for any other conduct prejudicial to the interest and correct functioning of the Association.

#### **5.2**

No company member may be expelled for failure to adhere to one or several agreed standards.

#### **5.3**

Any proposal to expel an Ecma member shall be backed by at least one-fifth of all the ordinary members. The proposal to expel shall be on the agenda for the General Assembly at which it is to be discussed so as to give the member the opportunity to present its case.

#### **5.4**

A two-thirds majority of all the ordinary members is necessary to expel an Ecma member. Such expulsion will become effective 15 days after notification by registered mail.

#### **5.5**

An Ecma member which has been expelled can only be re-admitted by the General Assembly with a two-thirds majority of all ordinary members.

## **Art. 6**

### **Change of class of company membership**

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#### **6.1**

If a company member wishes to change its membership class they shall apply for one of the other classes of membership according to the conditions set out in these By-laws.

#### **6.2**

An application for a change to a higher class of membership (more rights, higher fee) shall be made in a written notice carrying an authorized signature to the Secretary General and it shall be noted by the General Assembly. When changing to the Ordinary member class, voting rights may be exerted immediately after the membership class change was noted by the General Assembly.

#### **6.3**

An application for a change to a lower class of membership (less rights, lower fee) shall be made in a written notice carrying an authorized signature to the Secretary General before 1 October and it shall be noted by the GA. When changing from the Ordinary member class, voting rights may continue to be exerted until the end of the calendar year.

#### **6.4**

If a company member does not fulfil the conditions of its current membership class due to modifications of the By-laws the company member is not obliged to change its current class of membership. However, the conditions of the modified By-laws shall apply.

## **Art. 7**

### **Structure**

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#### **7.1**

The Association shall consist of:

The General Assembly.

The Management.

The Executive Committee.

#### **7.2**

The General Assembly shall consist of the ordinary members and shall be the highest authority of the Association. It shall control the Association and appoint and control its Management.

#### **7.3**

The Management shall consist of a President, a Vice-President and a Treasurer.

The Management shall not be personally liable for the debts, liabilities or other obligations of the Association.

#### **7.4**

The President and the Vice-President shall be individuals elected for one year by the ordinary members at a General Assembly.

After a call for nominations by the Secretary General, the Executive Committee and all Ecma members may nominate candidates for election no later than 45 days before the General Assembly. Only representatives of ordinary members can be nominated. Candidates should have previously served on the Executive Committee for a reasonable amount of time.

The Secretary General shall post the names of nominees no later than 30 days before the General Assembly.

The President and the Vice-President can be re-elected any number of times provided that neither serves more than three consecutive years.

#### **7.5**

The President shall, through the President's signature, commit the Association in any business or transaction directly connected with the purpose of the Association.

#### **7.6**

In the absence of the President, the Vice President shall perform all the duties of the President, and when so acting shall have all the powers of the President.

If either the President or Vice-President roles are vacated through resignation, death, incapacity, or expulsion, the role remains vacant until the next election. If both the President and Vice-President roles are vacated concurrently, the Secretary General shall perform the duties of the President until these roles get filled at the next General Assembly election.

#### **7.7**

There shall be a Treasurer whose duty shall be determined by the General Assembly. The Rules set out in 7.4 shall apply to the Treasurer's office, except that there shall be no limit in the number of consecutive years in office.

#### **7.8**

The Executive Committee makes recommendations to the General Assembly regarding business, legal and managerial matters and regarding the formation, activities, reorganization or dissolution of Technical Committees. The Executive Committee shall be composed of the three members of the Ecma Management, a maximum of eight members elected from representatives of ordinary members, and a maximum of four members elected from representatives of the remaining Ecma membership.

The members and the Chair of the Executive Committee shall be individuals elected by simple majority for one year at a General Assembly by the ordinary members.

After a call for nominations by the Secretary General, the Ecma Management and all Ecma members may nominate candidates for election no later than 45 days before the General Assembly. The Secretary General shall post the names of nominees no later than 30 days before the General Assembly.

The Chair shall be eligible for re-election, subject to a maximum term of office of three consecutive years. The other members can be re-elected any number of times. Only one representative per Ecma member can be elected.

#### **7.9**

Candidates for the four remaining Ecma membership positions shall be representatives of an associate, SME, SPC or NFP member. Those candidates may be nominated after a call for nomination by the Secretary General as specified in 7.8. In the case where there are more than four individuals nominated, the four candidates receiving the highest number of votes shall be elected.

## **Art. 8**

### **General Assembly**

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#### **8.1**

The President shall each year call at least two ordinary General Assemblies. Notice of the time and place of the General Assembly shall be given at least thirty days before the date of the General Assembly. The agenda and supporting documents for the General Assembly shall be made available at least fifteen days before the General Assembly.

#### **8.2**

Special General Assemblies for any purpose or purposes unless otherwise prescribed by these By-laws or the Rules of the Association may be called by the President, and shall be called by the President at the request in writing of at least one-fifth of all the ordinary members. Such request shall state the purpose or purposes of the proposed General Assembly.

Notice of Special General Assemblies stating the time, place and object thereof, shall be given to each ordinary member at least three weeks before the date of the General Assembly and shall include the agenda and supporting documents for the General Assembly.

The business transacted at any Special General Assembly shall be limited to the purposes stated in the notice.

#### **8.3**

Unless otherwise restricted by these By-laws or the Rules of the Association, any action required or permitted to be taken at a General Assembly may be taken without a meeting by a postal ballot (including through emails or any other suitable electronic means), if it has been announced in advance and has been approved by the General Assembly.

#### **8.4**

The General Assemblies may take place under the form of a physical meeting, or exclusively by electronic means, without a physical meeting place (virtual meeting), or with a physical venue and a virtual meeting at the same time (hybrid meeting).

For due conduct of virtual or hybrid meetings, the following conditions shall be met:

1. The meeting platform is available to the participants and operational;
2. The identity of the participants is clearly established;
3. The oral contributions of each participant are directly transmitted;
4. Each participant can participate in the debate;
5. Technical or procedural means are used to ensure that the votes of the ordinary members cannot be falsified.

Ecma does not have to provide for the independent voting representative that is required by Article 701d of the Swiss Code of Obligations in the case of a virtual meeting.

#### **8.5**

A majority of all the ordinary members shall be present or represented by proxy at any General Assembly, or respond to a postal ballot, in order to constitute a quorum for transaction of the business except as otherwise provided by these By-laws or the Rules of the Association.

#### **8.6**

Unless otherwise prescribed by these By-laws or the Rules of the Association, the vote of the majority of all the ordinary members shall decide any question.

## **Art. 9**

### **Publication of Standards and Technical Reports**

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#### **9.1**

The adoption of such documents for publication by the Association shall require approval by at least two thirds of all the ordinary members.

#### **9.2**

Proposed drafts shall be made available by the Secretary General at least two months in advance of the date at which they will be voted upon.

#### **9.3**

It is not mandatory for Ecma members to implement any Ecma standard.

#### **9.4**

All documents when approved shall be made available to all interested parties without restriction.

#### **9.5**

A Corrigendum contains corrections to an already published document and is published as a separate document that contains only corrections. A Corrigendum may be prepared and approved by a TC when a Standard or a Technical Report contains errors which makes it unusable as published. A Corrigendum shall be approved by the Technical Committee members either at a meeting or by a postal ballot of a minimum of three weeks. The Executive Committee shall be informed before the commencement of the approval procedure. The Corrigendum shall be incorporated in a revision of the Standard or Technical Report.

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## **Art. 10**

### **Ad Hoc Committees**

#### **10.1**

The General Assembly may delegate authority for specific purposes to ad hoc committees.

#### **10.2**

Unless otherwise decided at the time of its appointment each ad hoc committee may co-opt additional members should it so desire.

#### **10.3**

No ad hoc committee may meet for more than one year without being reappointed.

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## **Art. 11**

### **Secretariat**

#### **11.1**

There shall be a permanent Secretariat of the Association responsible to the General Assembly.

#### **11.2**

A Secretary General shall be appointed by the General Assembly and shall be responsible for the operation of the Secretariat.

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## **Art. 12**

### **Technical Committees**

#### **12.1**

Technical Committees (TCs) will be formed by the Secretary General when so decided at a General Assembly.

#### **12.2**

Any Ecma member may participate in any TC.

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## **Art. 13**

### **Fiscal year**

The fiscal year shall commence on 1 January and end on 31 December.

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## **Art. 14**

### **Finance**

#### **14.1**

The annual budget of the Association shall be approved by at least two thirds of the ordinary members represented at an ordinary General Assembly.

#### **14.2**

The Association shall be financed by its company members. The fees for each membership class are set in advance by the ordinary members during an ordinary General Assembly and are based on the budget for the following fiscal year. Such fees shall be used to finance the activity of the Association and its administrative expenses. Any surplus of income over the expenses shall be carried over to the next budget.

#### **14.3**

The Secretary General shall be responsible for expenditures within the budget.

#### **14.4**

The Management may authorize expenditures outside the budget to an amount not exceeding 10 per cent of the corresponding item in the current year budget. Any expense above this shall be approved by the majority of all ordinary members.

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## **Art. 15**

### **Dissolution**

In the event of the dissolution of the Association, its assets are first used to discharge its liabilities. Any balance of liability shall be borne by the company members in proportion to their annual fees. Any surplus funds remaining after the liabilities have been discharged will be distributed to those which are company members at the date of dissolution in proportion to their total contributions to the Association.

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## **Art. 16**

### **Amendments**

#### **16.1**

The By-laws and any Rules that may be adopted by the General Assembly, including any policies on intellectual property rights (including the Code of Conduct in patent matters), can only be modified at an ordinary or special General Assembly.

The proposed amendments shall be presented with the rationales for the change enclosed with the agenda and notified to the company members according to the provisions of Articles 8.1 and 8.2.

**16.2**

Amendments shall require approval by two thirds of all the ordinary members.

**Art. 17**

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**Litigation**

Any dispute arising during the life of the Association or during its dissolution either between the members of the Association and its Management or between the members and the Association or between the members themselves as a consequence of the Association's activity shall be decided upon by the Courts of the Canton of Geneva. Swiss law is applicable in all cases.