

24.4.2023

## Task Force on the Review of the Rules and Regulations for the Governance of the European Higher Education Area (TF RR)

### Report, Work plan & BFUG thematic block

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### Introduction

This document proposes the steps to be considered for development and adoption of a suitable modification of current Rules of procedures of the BFUG and a list of key issues to be discussed first in the Task Force, and then also in the BFUG.

It comprises in annex first documents that have been developed by the TF - the draft EHEA Statutes and the Concept note on Permanent EHEA Secretariat. These are **working drafts intended to illustrate more concretely the key principles, general concept, to enable discussion at the BFUG**. Based on the feedback of the BFUG, and subject to its principal agreement on the feasibility of proposed approaches, more elaborated proposals will be developed

The BFUG members are therefore invited at their meeting in Stockholm in May 2023 to:

- agree on a concept of a two-layer structure of future EHEA rules and regulations, i.e. Rules of Procedures for the BFUG, and EHEA Statutes for the Ministers;
- indicate whether a permanent EHEA Secretariat seems to be feasible and should be further developed, with the final decision on this issue to be taken at later stages, respecting the role of the responsible Ministers in such systemic changes. And if so...
- ... to agree on basic principles of a prospective permanent Secretariat, including a preferable legal form of organisation, its general features, principles for its introduction and integration within the existing EHEA structures.

## Background

The Task Force (TF RR) was set by the Bologna Follow UP Group (BFUG) in Brno in November 2022 in order to revise the current Rules of Procedure (ROP) and provide a set of amended rules reflecting the emerging challenges, changing scope of EHEA focus and tasks. Therefore, the objective of the TF, as also confirmed in the TOR, goes clearly beyond a revision of detailed rules and wording, yet should regard also the governance and working structures of European Higher Education Area (EHEA) based on clear principles and values. This was confirmed by the BFUG discussion in Brno.

The Task Force has been thus – and will be - reconsidering among others:

- organisational structures, including the BFUG (Bologna Follow-Up group), BFUG Board and the secretariat regarding their roles, tasks and interplay;
- membership, including application processes and support for new members, and also suspension, and termination;
- decision-making processes and procedures, including voting, the role, tasks and ways of working;
- and their reflection in relevant rules and documents.

As part of this remit, the TF RR has considered options for a more permanent Bologna Secretariat. A first proposal is now submitted to the BFUG for consideration.

## Concept and issues addressed

The Task Force focused in the first month of work on agreement on the main concept and approach to the review of existing rules and procedures, in the light of the review of the EHEA structures, its mandate to consider possible changes including the role and status of the permanent Secretariat.

The steps within the plan are based on following principles and outputs:

1. **Revised rules of procedures for the entire EHEA structure** in case of which the Task Force proposes – for the BFUG’s consideration – a suitability of two levels of documentation:
  - a. **EHEA Statutes** as a short key document, which targets the member countries’ ministers and should be adopted and amended by them. It focuses on general principles, values and overall structure, division of main competences of the Ministers and the BFUG, indication of potential voting mechanism and quorum, as well as issues of membership in EHEA, its suspension and termination.
  - b. The **revised rules and procedures** governing the work of BFUG, its current structures and their competences at a level of detail allowing effective and efficient operation. Adopting and adapting this more detailed set of rules should be within the competence of the BFUG.
  - c. The set of documents and rules might be further affected by **formal provisions for a possible legal entity** of a **permanent Secretariat**, should this be the preferred solution. Several options were considered (see further) with arguments in favour of the proposed form of an international non-for-profit association or similar. This might require adjustment of and harmonisation with the above-mentioned Statutes and Rules of Procedure with Statutes.

2. Proposed **text for the Ministerial communique**, reflecting any systemic changes, necessary mandate to the BFUG for their implementation, yet also some documents to be attached as an annex to the communique, e.g. the EHEA Statutes.
3. **Potential recommendations for further structural development of the EHEA** in the long term, most likely with focus on executive structures and especially introduction of a permanent Secretariat, including a proposed roadmap for their introduction and integration.

TF RR will regularly update the BFUG on its work and request its feedback, both at BFUG meetings, but possibly also by other remote electronic means including webinars or online consultation meetings. This is important to enable consensus development on some key issues, on which BFUG representatives may also want to consult within ministries and organisations.

### Workplan, activities and steps to follow

The TF RR has met 4 times:

- 16 December 2022, online: preparatory meeting, expectations, first agreements, co-chairmanship
- 13 January 2023, Brussels: work plan, concept of formal arrangement of rules and procedures (structure and framework), key guiding questions, division of sub-tasks
- 10 March 2023, online: input to the BFUG Board, discussion on EHEA Statutes, Secretariat, concept and focus of the Thematic block within the BFUG in Stockholm, further steps
- 19 April 2023, online: reflection of the BFUG Board conclusions, review of existing drafts (EHEA Statutes, concept paper on the alternative of introducing the Permanent Secretariat) and preparation of the thematic block for the BFUG discussion and indication of future direction of work.

In the first meeting on 16 December 2022, the Task Force members agreed to propose the following co-chairs:

- Michael Gaebel, EUA
- Michal Karpisek, Czech Republic
- Luca Lantero, Italy

And this proposal was adopted by remote voting (silent agreement) of the BFUG.

The BFUG Board in Sarajevo appreciated the proposed concept, asked for more elaborated input, especially as regards the possible Permanent Secretariat and agreed on allocating necessary time for the BFUG discussion on potential key principles and further work of the Task Force.

The following table includes a proposed draft roadmap with focus on development of documents, interaction with the BFUG (BFUG Board) and possible expected input from the TF to drafting of the ministerial communique.

Period	Action	Notes
11.-12.5.23	BFUG, 11.-12.5.23, Stockholm, Sweden	Feedback from BFUG on key issues and direction for further work, view on concept of RoP
V-X.2023	TF meetings: <ul style="list-style-type: none"> <li>debriefing, 12./13.5.23, Stockholm</li> <li>online, late June 2023</li> </ul>	Reflection on BFUG, further plans, development of more concrete proposals
VI – X. 2023	Developing first proposals for autumn BFUG discussions	<ul style="list-style-type: none"> <li>EHEA "Statutes" draft 2</li> <li>Proposal of processes and procedures, principles (alternatives) for voting and more detailed proposals of their revision, list of procedures to be left out</li> <li>Emerging recommendations on structures</li> <li>Potential key issues for the Ministerial communique</li> </ul>
IX-X.2023	TF online meetings <ul style="list-style-type: none"> <li>online, early Sep 2023</li> <li>online, late Oct 2023</li> </ul>	update on progress, plans for revised RoP, emerging recommendations, ideas on input to the communique
IX-X.2023	BFUG Board, 2 Oct 2023, Tbilisi, Georgia	Feedback, planning BFUG discussion
XI. 2023	BFUG, 16 – 17 Nov 2023, Madrid, Spain	<ul style="list-style-type: none"> <li>Proposed EHEA Statutes</li> <li>Model for Secretariat and roadmap</li> <li>Overview of Rules and procedures, proposed modifications</li> </ul> Feedback from BFUG on key issues and direction for further work, view on concept of RoP and structures
I-V.2024	Further TF meetings: <ul style="list-style-type: none"> <li>mainly online (tbc)</li> <li>1 meeting in person</li> </ul>	The schedule will be following the updated roadmap and will be specified after summer 2023
I.2024	<b>Proposal of "EHEA Statutes"</b>	<ul style="list-style-type: none"> <li>Proposal of the annex to the communique summarising key objectives, principles and structures.</li> <li>Final input to the text of the Ministerial communique</li> </ul>
I.2024	Draft documents	<ul style="list-style-type: none"> <li>Draft set of revised Rules of procedures for the current structure</li> <li>Framework of recommendations on further structures</li> </ul>
I.2024	BFUG Board, Rome, Italy 22-23 Jan 2024	
II.2024	BFUG, 19-20 Feb 2024, Brussels, Belgium	Key issues, proposed formulations including any structural changes to be addressed by the Ministers
III.2024	<b>Final recommendations on EHEA structures</b>	Recommendations including proposed models and further steps (roadmap)

Period	Action	Notes
III.2024	<b>Final RoP revision</b>	Proposal of the revised Rules of procedures for the current or slightly modified structures within the BFUG competences
III.2024	BFUG Board, Rome, Italy 21-22 March 2024	Final comments on TF RR documents
IV.2024	Fine tuning of the TF documents	Final edition of the "EHEA Statutes" as an annex to the Ministerial communique, revised RoP, set of recommendations.
IV.2024	BFUG, 18 – 19 Apr 2024, Brussels, Belgium	final comments and agreements on the text
V.2024	BFUG meeting in Tirana, Albania	
V.2024	Ministerial conference, ca mid-May 2024, Tirana	Adoption of the communique

Note: blue cells indicate TF meetings, orange ones refer to the BFUG meetings schedule

#### Annexes:

The following annexes serve the discussion within the BFUG and may require internal consultations prior to the participation in the BFUG:

- **Annex 1: Key issues and questions: Thematic block in BFUG in May 2023**
- **Annex 2. Statutes for the European Higher Education Area**
- **Annex 3. Permanent EHEA Secretariat. Concept Note**

## Annex 1: Key issues and questions: Thematic block in BFUG in May 2023

The TF RR has identified several issues which need to be discussed within the BFUG in order to set a basis for further work and more concrete proposals. The following list of issues shows the ones discussed within the TF RR, however for the further work and development of more concrete proposal the TF RR asked for a thematic block within the BFUG in order to introduce the topic, allow more thorough discussion, receive a feedback and reach basic, principal agreements within the BFUG as shown above.

### Guiding questions

The guiding questions for the thematic groups are:

- **Do BFUG members agree on a concept of a two-layer structure of future EHEA rules and regulations as proposed – the EHEA Statutes for the Ministers & more detailed Rules & Procedures in the competence of the BFUG?**
- **Is an idea of introducing a permanent EHEA Secretariat feasible and desirable? What are the benefits and challenges of the present approach with the rotating Secretariat and those which a permanent Secretariat may bring?**
- **In case of potential introduction of the permanent secretariat is the form of non-for-profit association or foundation the preferred solution?**

These are main questions which should be answered by the BFUG in order to direct further work of the Task Force.

In addition, the BFUG is invited to provide comments on the proposal of a permanent secretariat, in order to improve the concept for the next round of discussion, especially regarding:

- Role, competences, and capacity of such secretariat
- Possible financial aspects of the proposed solution (the calculations are indicative, for information purposes only)
- Issues related to the governance and supervision of the Secretariat, links to the EHEA structures, in particular to the BFUG
- Independence of the Secretariat from the hosting country, proposed principles and criteria
- Possible roadmap of introduction of a permanent secretariat

The following annexes on EHEA Statutes and the concept of the Permanent EHEA Secretariat serve as a main input to the discussion. These are provisional, working proposals intending to inform about the proposed concept, to be further developed, should the outcome of the discussions at the BFUG confirm this direction. The discussions should, therefore, focus on key issues, rather than the details.

## Thematic block agenda

The proposal is based on the draft agenda adopted by the BFUG Board in Sarajevo on 31 March 2023.

Day, time	Item	Note
<b>Thursday, 11 May 2023</b>		
15:00 – 15:30	<b>Plenary session: Presenting the concept</b> <ul style="list-style-type: none"><li>• TF RR report + work plan</li><li>• Introduction of the 2 layer regulations &amp; EHEA Statutes concept</li><li>• Concept of the Permanent Secretariat</li></ul> <b>Introduction to the thematic discussions in groups</b>	Plenary session
15:30 – 15:45	Coffee break	
15:45 – 17:30	Thematic discussion in groups	Facilitated group discussion on guiding questions, 3 groups
<b>Friday, 12 May 2023</b>		
9:00 – 9:20	<b>Summary of conclusions from the thematic groups</b> One summative report + comments	Plenary session
9:20 – 10:00	<b>BFUG discussion + conclusions</b>	Plenary session



*Last updated 19.04.2023*

## **BFUG Task Force Rules of Procedure**

### **Annex 2. Statutes for the European Higher Education Area**

*Draft 10 03 2023 - for the BFUG Board*

NB: All footnotes with reference to other texts or explanation of the wording suggested are intended as explanations at this stage of the discussion only and will be deleted in later versions.

WE, the Ministers responsible for higher education of the States members of the European Higher Education Area, meeting in Tirana on [DATES]

*Considering* that over its 25 years of existence, the European Higher Education Area/Bologna Process has provided a successful model for coordinated policy reform, taken forward through cooperation between public authorities, higher education institutions, students and staff, respecting the roles and prerogatives of each;

*Reaffirming* our continued commitment to the European Higher Education Area;

Considering that at its present stage of development, the European Higher Education Area requires an enhanced framework to fulfil its ambitious mission.

ADOPT these Statutes

## **I. AIM**

### **Article I.1**

The aim of the European Higher Education Area is to enhance the quality and role of higher education through cooperation on and coordination of higher education reform and policy development across Europe with the participation of public authorities; higher education institutions, students, and staff through their presentative organisations; as well as international institutions and governmental and non-governmental organisations with competence in higher education.

## **II. FUNDAMENTAL VALUES**

### **Article II.1**

Through its policies and practice, the European Higher Education Area shall further and consolidate the fundamental values of higher education: academic freedom, academic integrity, institutional autonomy,



participation of students and staff in higher education governance, and public responsibility *for and of* higher education.

### III. GUIDING PRINCIPLES

#### Article III.1

The European Higher Education Area shall build on policies developed and agreed jointly by its members and implemented within each education system.

The views of the European higher education community of institutions, students and staff shall be heard on all issues on which Ministers may wish to adopt policies or otherwise make decisions.

#### Article III.2

The European Higher Education Area may establish frameworks, guidelines, and other mechanisms to further implementation through cooperation and mutual support at European level.

#### Article III.3

All members and consultative members shall do their utmost, within their respective education systems and contexts, to further implementation of policies and decisions adopted by Ministers.

#### Article III.4

The cooperation includes the policy areas and measures identified through the declarations and communiqués adopted by Ministers at their regular conferences or in any other setting Ministers may identify as appropriate for decision making in the European Higher Education Area.

### IV. MEMBERSHIP

#### Article IV.1

States party to the European Cultural Convention shall be eligible for membership of the European Higher Education Area provided that they at the same time declare their willingness to pursue and implement the objectives of the Bologna Process in their own systems of higher education. The European Commission shall equally be a member of the European Higher Education Area.

#### Article IV.2

Non-governmental organisations of stakeholders with a legitimate interest in and commitment to higher education and representative of their membership at European level as well as intergovernmental

organisations representative of public authorities with competence in higher education policy at European level shall be eligible for consultative membership of the European Higher Education Area.

### **Article IV.3**

The Bologna Follow-Up Group may grant organisations that do not fulfil the criteria for consultative membership other forms of association with the European Higher Education Area. Any such decision shall be communicated to Ministers.

### **Article IV.4**

Appendix A to these Statutes provides an overview of members and consultative members of the European Higher Education Area. Any decision concerning membership or consultative membership made in accordance with the provisions of Articles IV.1 and IV.2 shall be deemed to modify this Appendix.

## **V. ACCESSION, WITHDRAWAL AND EXCLUSION**

### **Article V.1**

Ministers shall have the exclusive competence to accept new members and consultative members of the European Higher Education Area in accordance with the provisions of Articles IV.1 and IV.2. Such decisions shall normally be made at a regular Ministerial conference but may in exceptional cases be made through any other procedure Ministers identify as appropriate.

### **Article V.2**

Any member or consultative members may withdraw from the European Higher Education Area upon notification in writing, duly signed by the appropriate authority within the member or consultative member, to the Co-Chairs and Secretariat of the European Higher Education Area. Any financial consequences for the European Higher Education Area of such withdrawal shall take effect at the end of the financial year in which it is notified, if the notification is given before 1 September of that year, and at the end of the next financial year, if the notification is given on or after 1 September of the year.

### **Article V.3**

Should a member or consultative member pursue policies or issue official statements that constitute significant violations of the values of the European Higher Education Area or that significantly contradict the commitments as agreed through the declarations and communiqués, the Ministers may decide that the said country, institution, or organisation shall cease to be a member or consultative member of the Area.

## VI. GOVERNING BODIES

### Article VI.1

The European Higher Education Area shall have the following governance bodies:

- The Ministerial Conference
- The Bologna Follow-Up Group
- The Board of the Bologna Follow-Up Group
- The Co-Chairs and Vice Chair.

### The Ministerial Conference

### Article VI.2

The Ministerial Conference shall be the highest decision-making authority of the European Higher Education Area. It shall be made up of Ministers responsible for higher education or their substitutes of the States members of the European Higher Education Area and of representatives of the highest possible rank with competence in higher education policy of the European Commission and consultative members.

### Article VI.3

The Ministerial Conference shall meet in regular session at least every three years. Regular sessions shall as far as possible be held in presence. Extraordinary meetings of Ministers shall be held by decision of the Co-Chairs or when requested in writing by at least one third of the Ministers and duly authorised representatives of the European Commission and consultative members.

### Article VI.4

The Ministerial Conference shall set its own agenda and make decisions in matters as Ministers consider appropriate. It shall have exclusive competence in matters concerning:

- The adoption of declarations and communiqués.
- Determining the priorities of the work programme of the European Higher Education Area.
- The adoption of standards, guidelines, and other instruments considered binding on the European Higher Education Area and its members.
- The adoption of other major policy measures and goals guiding the development of the European Higher Education Area.
- The admission or exclusion of members and consultative members of the European Higher Education Area.

- The decision on the venue of Ministerial Conferences and Bologna Policy Fora.
- Any modification of the present Statutes.

## **The Bologna Follow-Up Group**

### **Article VI.5**

The Bologna Follow-Up Group shall oversee the development of the European Higher Education Area between Ministerial conferences, ensure the implementation of the work programme adopted by Ministers and prepare issues for discussion and decision by Ministers. It shall be made up of duly authorised representatives, with competence in higher education matters, of the members and consultative members of the European Higher Education Area.

### **Article VI.6**

The Bologna Follow-Up Group shall meet at least once under each Co-Chairmanship. Regular meetings shall as far as possible be held in presence. Extraordinary meetings of the Bologna Follow-Up Group shall be held by decision of the Co-Chairs or when requested in writing by at least one third of the members and consultative members.

### **Article VI.7**

The Bologna Follow-Up Group shall decide on:

- Matters relating to the implementation of the work programme adopted by Ministers.
- The setting up of any groups required to implement the work programme or otherwise support its work, including their terms of reference, membership and (Co-)Chairs.
- Arrangements for preparing the draft communiqué for the Ministerial Conference as well as for preparing the draft statement to be submitted to the Bologna Policy Forum.
- Invitations to any participants other than members and consultative members of the European Higher Education Area to the Ministerial Conference, as well as the status of any such participants at the conference.
- Invitations to the Bologna Policy Forum, other than to those who are invited automatically as members or consultative members of the European Higher Education Area.
- The sequence of Co-Chairs of the Bologna Follow-Up Group, including any modifications of the sequence once this has been adopted.
- The representation of the Bologna Follow-Up Group in any groups for which such representation is requested and accepted.
- The format of the meetings of the Bologna Follow-Up Group and Board, including the venues of meetings held in presence.
- The association of organisations with the European Higher Education Area except through membership or consultative membership.
- Regulations and guidelines for the Secretariat.

- Any matter delegated to it by the Ministers.

The Bologna Follow-Up Group shall further oversee, in cooperation with the authorities of the host country, the organisation of the Ministerial Conferences and the Bologna Policy Forum and advise Ministers on all matters put before the Ministerial Conference or otherwise referred to the Ministers for decision.

The Bologna Follow-Up Group may decide to suspend the right of representation in the governing bodies and participation in the work programme of any member or consultative member judged to have acted in ways warranting their exclusion from the European Higher Education Area under Article V.3, until such time that Ministers, at a regular Ministerial Conference or otherwise, may decide whether to exclude the said member or consultative member.

## **The Board of the Bologna Follow-Up Group**

### **Article VI.8**

The Board of the Bologna Follow-Up Group (Bologna Board) shall oversee the work between the meetings of the Follow-Up Group. It shall be made up of the Co-Chairs of the Bologna Follow-Up Group in the semester concerned, the Co-Chairs in the immediately preceding and following semesters, the Vice Chair, and representatives of the European Commission, the Council of Europe, the European University Association, the European Association of Institutions in Higher Education (EURASHE), and the European Students Union. The Co-Chairs may invite a representative of Working Groups, Task Forces and similar bodies to participate, without the right to vote, in the consideration of items arising from the work of the group in question.

### **Article VI.9**

Regular meetings of the Board shall be held at least once under each Co-Chairmanship. Extraordinary meetings of the Board shall be held by decision of the Co-Chairs or when requested in writing by at least one third of the members and consultative members represented in the Board. Meetings shall be held in presence or online as judged preferable. As far as possible, at least one meeting under each Co-Chairmanship shall nevertheless be held in presence.

### **Article VI. 10**

The Bologna Board shall prepare the meetings of the Bologna Follow-Up Group. It may make decisions on matters which do not require consideration by the Bologna Follow-Up Group or are delegated to it by the latter.

## **Co-Chairs and Vice Chair**

### **Article VI.11**

The Co-Chairs coordinate the work of the Bologna Follow-Up Group and Board and chair the meetings of these.

The Co-Chairs are appointed for six months, normally from January 1 to June 30 and from July 1 to December 31. One Co-Chair shall represent a European Union and the other a non-European Union member State of the European Higher Education Area. The order of the European Union Co-Chairs shall normally follow the order of European Union Presidencies, that of the non-European Union Co-Chairs the names of the countries in English alphabetical order. The order may nevertheless be modified according to the provisions of Article VII.2.

#### **Article VI.12**

The Vice Chair is provided by the country hosting the forthcoming ministerial conference and shall serve for the duration of the work period concerned. The Vice Chair shall in particular ensure the liaison between the BFUG and the authorities of the country hosting the Ministerial conference. The Co-Chairs shall consult the Vice Chair as appropriate in the preparation of the meetings of the Bologna Follow-Up Group and Board. Should two or more countries jointly organise the Ministerial Conference, they shall appoint one Vice Chair acting on behalf of all the host countries.

#### **Other bodies**

#### **Article VI.13**

The Bologna Follow-Up Group may establish working groups, task forces and similar bodies to assist it in implementing the work programme or prepare decisions on matters within its competence. Such bodies may be established for the duration of a work programme or a part thereof and shall have no decision making authority.

### **VII. DECISION MAKING**

#### **Article VII.1**

At all levels, decisions concerning the European Higher Education Area shall as far as possible be made by consensus.

If, in spite of the best efforts of the Co-Chairs, consensus is not possible, decisions shall be taken by vote. In physical meetings, votes shall be conducted by secret ballot if so requested by one or more delegations. In votes conducted by electronic means, arrangements shall enable the votes to be cast anonymously, with due controls ensuring that only those entitled to cast a vote are able to do so.

#### **Article VII.2**

Each Member shall have two votes and shall for each meeting indicate to the Co-Chairs who casts the votes on its behalf. Where a delegation is made up of more than one constituent, one of these may vote on behalf of the other constituent provided the latter expressly authorises it to do so by indicating this to the Co-Chairs.



### Article VII.3

Votes shall be decided by a majority of the valid votes cast. Decisions shall nevertheless require two thirds of the valid votes cast in matters concerning:

- Any financial commitments on behalf of the European Higher Education Area.
- Adoption of the work programme.
- Adoption of standards, guidelines, and binding policy instruments or goals.
- The admission and exclusion of members or consultative members.
- Modifications of the present Statute.

## VIII. POLICY FORUM

### Article VIII.1

A Policy Forum shall normally be organised in conjunction with Ministerial Conferences. It shall be prepared by the Bologna Follow-Up Group, which may appoint a Working Group to assist it in this task. The Bologna Follow-Up Group shall prepare the statement to be submitted to the Bologna Policy Forum and decide on invitations to the Forum in accordance with Article VII.2.

### Article VIII.2

In preparing the Policy Forum and the draft statement to be submitted to it for adoption, the Bologna Follow-Up Group shall as far as possible seek the opinion and involvement of countries and organisations likely to be invited to the Bologna Policy Forum.

### Article VIII.3

The Bologna Follow-Up Group shall seek to establish policy dialogues on policy areas and measures of common concern with partners in other regions during the work period between Bologna Policy Fora.

## IX. SECRETARIAT

*This section will be developed subject to the outcome of the discussions on the Secretariat in the BFUG, and in consideration of the document that sets out the approach for the Secretariat.*



## **X. FINANCE**

### **Article X.1**

The members of the European Higher Education Area shall be responsible for its finances. The Bologna Follow-Up Group shall adopt an operational budget, at a time that allows for sufficient preparation of the implementation of the budget.

### **Article X.2**

The annual budget of the European Higher Education Area shall at a minimum cover the costs of the Secretariat. It may further cover any common expenses agreed on by the Bologna Follow-Up Group. The budget shall be apportioned among the members of the European Higher Education Area according to a repartition to be agreed among these.

### **Article X.3**

The annual budget of the European Higher Education Area may be supplemented by voluntary contributions and project funding.

### **Article X.4**

On the establishment of the Secretariat under the provisions of Article X.1, each member of the European Higher Education Area shall make a one-off payment, as agreed among members. This contribution shall be kept in reserve to ensure the continued operation of the Secretariat in case one or more members do not fulfil their financial obligations under Articles XI.1 and XI.2.

### **Article X.5**

Members and consultative members shall be responsible for covering the cost of their own participation in the European Higher Education Area.

## **XI. Final provisions**

### **Article XI.1**

The present Statute shall be adopted by a majority of at least two thirds at the [YEAR] Ministerial conference of the European Higher Education Area. It may subsequently be modified by Ministers according to the provisions of Article VIII.3.

### **Article XI.2**

The Statute shall be kept by the authorities of [THE COUNTRY IN WHICH THE PERMANENT SECRETARIAT IS LOCATED], which shall provide the competent authorities of all members and constructive members with a duly certified copy.

## Annex 3. Permanent EHEA Secretariat

### Concept note

for discussion at the May 2023 BFUG

### Background and Rationale

So far, the country hosting the next Ministerial Conference has provided the BFUG Secretariat (or Bologna Secretariat, both terms have been used interchangeably in the past), for a term of 2-3 years, with staff either seconded from ministries, other organisations, or newly recruited. Other BFUG members occasionally seconded staff. Usually, the entire Secretariat team changed when handing over to the next host country.

This rotating arrangement has advantages: It emphasizes the fact that the Bologna Process is based on the proactive engagement of its members, which contributes to a sense of broad shared ownership and responsibility. It also helped to ensure that the hosting country was for the entire period responsibly involved, and therefore well-prepared to host and organise the Ministerial Conference. But it also brings challenges: hosting countries may have different understanding of and approaches to the Secretariat. A new secretariat team, sometimes with no or little experience in the BP, requires time to fully take up its tasks. In addition, there are technical issues, such as the transfer and further development of the Website, the establishment and maintenance of an archive etc. All this may contribute to delays, misunderstandings and miscommunications, and lead also to periods of instability, especially during the regular periods of handing over.

Since the run-up to the 2010 Ministerial Conference, marking the launch of the EHEA and the transition from a “process” to an “area”, discussions on a more permanent arrangement for the Secretariat have been held from time to time (see Bergan and Geanta 2020<sup>1</sup>), with a view to overcome the structural and organisational deficits of the rotating arrangement.

Different options were explored, but this never resulted in a concrete and specific proposal for an alternative. The TF was hence tasked to develop a proposal on how a permanent Secretariat could be implemented.

The proposed permanent Secretariat would generally have the same tasks and responsibilities as the current rotating Secretariat, but provide a more continuous, stable and reliable support structure for the EHEA. Staffed by professionals with a permanent contract, the Secretariat would be able to maintain a solid knowledge base and provide expertise at the service of the EHEA and its bodies, on a permanent basis.

The Secretariat would be hosted under a dedicated legal entity created for that purpose and be fully accountable to the BFUG itself, both formally and politically.

Removing the responsibility of hosting the Secretariat for 2-3 years would also reduce the burden on the host country of the Ministerial Conference, once a permanent Secretariat is established.

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<sup>1</sup> Bergan, S., Geanta, I, *Toward a Permanent Bologna Secretariat*, in *European Higher Education Area: Challenges for a New Decade*, Springer (2020), at [https://link.springer.com/chapter/10.1007/978-3-030-56316-5\\_30](https://link.springer.com/chapter/10.1007/978-3-030-56316-5_30)

## Tasks and Responsibilities

The Secretariat should maintain the current overall task of providing “neutral support to further the consolidation of the European Higher Education Area under the authority of the BFUG”.

Similar to the existing ToR this would include:

- **administrative and operational support for the BFUG, its Board and all BFUG sub-structures (WGs, CGs, BICG, TPGs, TFs), including:**
  - assisting in planning the meetings,
  - drafting background documents and reports,
  - taking minutes,
  - ensuring communication between different bodies;
- **management of the EHEA work plan, including:**
  - drafting the work plan in cooperation with the BFUG Co-chairs,
  - supporting its implementation throughout the period, in coordination with the responsible groups;
- **consistent communication within and outside EHEA structures, including:**
  - managing and updating the EHEA website,
  - sharing information with members and stakeholders,
  - serving as contact point for outside parties interested in the Bologna Process and the EHEA,
  - representation of EHEA at external events/meetings within the mandate agreed by the BFUG co-chairs,
  - maintaining contact with other structures and initiatives in Europe and beyond (e.g. European Research Area, ASEM);
- **support the organisation of the EHEA Ministerial Conferences and Policy Forums, in close collaboration with the host country;**
- **management of the EHEA finances, including:**
  - preparing an annual budget,
  - ongoing accounting,
  - providing annual accounts.

In order to fulfil its responsibilities the Secretariat should include at least:

- **Head of the Secretariat** - international, recruited through an open selection process, with the final appointment subject to the BFUG’s confirmation
- **Policy Officers** - assigned to support BFUG/WGs both in terms of policy and logistics
- **Communication Officer** - responsible for overseeing both internal and external communication
- **Administrative Officer** - managing administrative tasks in the country hosting the Secretariat
- Staff dedicated to organising the Ministerial Conferences (from the host country)

This leads to an **approximate total of 8 FTE** staff, plus 1 FTE seconded from the Ministerial Conference host country.

## Suggested Legal Form and Structure

To ensure independence and sustainability, the Secretariat should be fully accountable to the BFUG itself, both formally and politically, and not depend on the authorities of a single EHEA country. As a result, the permanent Secretariat needs to have its own legal personality in order to avoid that its staff would formally be on the payroll of the host country's ministry or any other host country authority/organisation.

Several potential options for an independent international Secretariat were already explored in more detail by Bergan & Geanta (2020):

- an existing European organisation could assume the role of the EHEA Secretariat;
- the Secretariat could be established by a treaty as a new intergovernmental organisation; or
- a private-law legal entity, e.g. non-profit association or foundation, could be created.

As explained in the article, the first option bears potential for conflicts of interest – the existing organisation would likely be involved in the EHEA as well –, while the second option would be cumbersome and take significantly longer time to set up. **Based on the good experience made with the setup of EQAR, the TF would recommend establishing in a similar way a new private-law legal entity. This latter option is the one further detailed in the present concept note.**

Such a legal entity would need to be established in one of the EHEA member countries<sup>2</sup>, most likely the same country where the Secretariat will physically be based. Most EHEA jurisdictions offer the possibility to set up non-profit associations or foundations. Even though the details and regulatory framework differ slightly between jurisdictions, a non-profit association is likely to be the most suitable legal form regardless of location.

An association is normally easy to establish, and is conceptually based on members (= EHEA members and consultative members) that associate around a common cause or activity (= supporting the EHEA, through a permanent Secretariat), which is not of a commercial nature (self-evident).

The membership and governing structure of the association should be based on and linked to the existing EHEA concepts and bodies to the greatest possible extent:

- The **EHEA members** would be members of the association, forming its general assembly (GA) with voting rights. Consultative members of the BFUG would also be consultative members of the association and be invited to participate in the GA, without voting rights. Hence, formal sessions can be held as part of or back-to-back with a BFUG meeting.
- The **BFUG Board** or a new, dedicated **Secretariat Governing Board** would serve as the association's board of directors.
- The **Head of the Secretariat** should serve as managing director. This would be a professional, not a political role, reporting to the BFUG. The person should be recruited through an open competition and their appointment approved by the BFUG.

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<sup>2</sup> The EU legal forms, such as European Economic Interest Grouping (EEIG) or *Societas Europaea* (SE), were not found suitable when EQAR was established.

- Within the agreed budget, further staff should be recruited by the Head of Secretariat through an open competition and report to them. The host country of the next Ministerial Conference should second one staff member to the Secretariat to facilitate liaison with the local organising team; other EHEA members and consultative members might second further staff.

The detailed governing structure should be defined based on a chosen host country, closely coordinated with the drafting of the future EHEA Statutes.

### Example for a national jurisdiction: Belgium

*Belgium being host to numerous EU institutions, is not surprisingly host to many European associations in all sectors. There are two legal forms in Belgium, namely “regular” non-profit associations (NPA ; French: association sans but lucratif, ASBL; Dutch: vereniging zonder winstoogmerk, VZW) and international non-profit associations (INPA, AISBL, IVZW).*

*INPAs come with the requirement that the association's objective needs to be of an international nature, but in turn offer much greater flexibility in their governing structure. EQAR, for example, is established as an INPA.*

*INPAs are required to have members, a general assembly of its members as the highest decision-making body and a board of at least three (natural or legal) persons in charge of the ongoing management. An executive director can either be a board member themselves or have delegated authorities for the daily management.*

*INPAs are exempt from corporate tax. Income might be subject to VAT depending on the type of activity, but membership fees are exempt from VAT in most cases.*

### Host Country Arrangements

To identify a suitable location, the TF would recommend that the BFUG issue an open call for hosts in which EHEA countries can volunteer to host the Secretariat.

The minimum requirements for host countries could be:

- availability of an appropriate legal form/status, including the possibility for EHEA countries to become members,
- ability to receive annual fees from EHEA countries without hindrance by regulations on “foreign agents”, unreasonable administrative burden, taxes or duties,
- rule of law, ensuring that the Secretariat can operate independently and without external interference and could – in the worst case – continue to operate without any further specific host country support.

In addition, the following criteria could be used to rank host country offers:

- openness and flexibility of employment regulations in terms of hiring nationals from other EHEA countries,
- accessibility of the proposed location from across the EHEA,
- cost level and budget required (depending on usual salaries, other costs and taxes),
- specific contributions/facilities offered by the host country (see below).

It would be natural that countries volunteering to host the secretariat might offer direct or indirect contributions, such as making office space available to the Secretariat or seconding staff to the Secretariat at the host country's expense. To avoid ending up in a competition where contributions offered become the only decisive factor or a scenario where the host country has too strong influence on the Secretariat's operation, contributions should be limited and subject to conditions such as:

- being based on a long-term commitment (e.g. written "seat agreement" between new legal entity and host country ministry),
- the total value of the host country's direct and in-kind contributions not exceeding a threshold, e.g. 20% of the Secretariat's budget
- At most, one staff member can be seconded, who cannot be the Head of Secretariat and needs to report (on content matters) to the Head of Secretariat, as the Secretariat's own staff members do.

### Required Budget

The following estimation is based on 8 FTE staff (see above), salaries comparable to European non-profit associations in the education sector and operating costs of comparable organisations. Different costs might vary depending on location, possibly up to +/-20%, and the below should thus be seen as a rough estimate.

Item	Estimated cost
Staff salaries	700 000
Travel/meeting costs (BFUG and EHEA structures, occasional external representation)	65 000
Office space	75 000
Other administrative costs	25 000
<b>Total</b>	<b>865 000</b>

The TF proposes that the Secretariat could be funded through two main sources, (a) a grant by the European Commission and (b) annual contributions by EHEA countries.

The European Commission would be available to make available a grant of EUR 200 000/year.

Annual contributions by EHEA countries could follow a system similar to that used by EQAR<sup>3</sup>: there are four fee brackets (lowest: EUR 3 737, highest: EUR 14 949) for Governmental Members, countries are assigned to a bracket based on an index calculated from their GDP and GDP per capita. The fee brackets are defined in such a way to have four similarly sized groups.

<sup>3</sup> See [https://www.eqar.eu/assets/uploads/2022/04/GA\\_06\\_1\\_Membership\\_Fees\\_v1\\_0.pdf](https://www.eqar.eu/assets/uploads/2022/04/GA_06_1_Membership_Fees_v1_0.pdf) for details on EQAR's current membership fees.



Based on the above budget and mirroring four fee brackets as EQAR currently has, the following brackets would yield sufficient funds to support the total costs (minus the Commission funding), on the presumption that all EHEA countries would contribute:

lowest	annual fees (EUR)		highest
6 000	12 000	18 000	24 000

### Next Steps Towards Implementation: transition from a rotating to a permanent secretariat

The TF recommends that the Stockholm BFUG meeting discuss the proposed model for a permanent Secretariat and make a principal decision whether the TF should continue to develop the concept.

In case of a positive decision, a host/seat country would have to be identified, as the Secretariat's legal form would depend on the national legislation. This will also impact many further preparations for founding the association and getting the Secretariat operational.

In order to set up the permanent Secretariat, two alternative time frames could be envisioned:

- The first option would be to set up the Secretariat sometime in between the next two Ministerial Conferences, with a possible need to solve the bridging period by support from the next conference hosting country or other solution based on the previous/existing capacity. This should provide sufficient time for working out the details and the proper setting up of a permanent Secretariat, including the financial arrangements that will require different approaches for EHEA members, in line with their national provisions.
- The second option would put in place a permanent Secretariat after the 2027 Ministerial Conference. This option would provide the BFUG with additional time to agree upon and to clarify all relevant aspects related to the new structure and even select its Head of Secretariat before the start of a new EHEA cycle.

Based on the conclusions of the BFUG meeting in Stockholm, the Task Force would provide a detailed roadmap for implementation in line with the agreed calendar.