Explanatory Note: Statutes of the Association

Dear BFUG members

We share with you the revised draft Statutes of the EHEA Secretariat Association that the members of the EHEA will jointly establish.

The first draft was circulated in early October and discussed in an information session on 6 October 2026. Several delegations provided written comments and suggestions following the meeting; these were considered and incorporated into the revised draft.

The following points might be useful to recall once more the context of the Statutes and to explain certain considerations that were made when drafting the proposed text.

We welcome further questions and feedback in writing at secretariat@ehea.info ahead of the 5/6 November BFUG meeting, at which the draft Statutes are tabled for endorsement.

Following finalisation of the text in Dublin, the TF will then work with the founding members to register the Association.

1. Context: the need to establish a legal personality

As the EHEA – apart from EQAR – has no institutions with a legal personality, we need to establish a legal entity to operate the long-term Secretariat. This is required to employ staff etc.

The BFUG agreed to do this through an association under private law in the host country. As the Secretariat will be hosted by one of the Romanian universities, the association will be established under Romanian law.

2. Principle: align as much as possible with the established ways of working of the Bologna Process

A new legal entity is necessary, but we want to avoid creating parallel structures or new bodies unnecessarily.

Naturally, the Statutes have to comply with the applicable Romanian legislation. But as much as possible, the TF aligned the organisational structure and the Statutes with established ways of working as set out in the RoP-EHEA and RoP-BFUG.

How we did this:

Co-funded by the European Union

- We kept the Statutes lean: they only include what is legally required or absolutely necessary to codify at this level. Details that are covered by the RoP-EHEA and RoP-BFUG are not repeated unless required, as these documents are applicable also for the new legal entity.
- Matters that need to be codified in the Statutes are aligned with the RoP-EHEA and RoP-BFUG.
- The membership of the Association mirrors that of the EHEA, with members and consultative members having the same rights and obligations as in the BFUG.

The TF believes it has proposed a lean and simple organisational structure that complies with the legal requirements and aligns with existing EHEA structures as much as possible.

3. Frequently asked questions

The following sections answer a number of specific questions that can be anticipated or that have been raised already.

Membership

What is the difference between the membership of the Association and the membership in of the EHEA?

An association must consist of members that apply to be members and are formally admitted. Thus, EHEA members cannot be made members of the association automatically.

The legal framework requires that the General Assembly (see below) decides on admission and exclusion of members; this is its inalienable right.

However, given that EHEA membership is the one and only eligibility requirement for membership, decisions on admission will de facto become a formality. Every EHEA member (unless suspended, as currently the case for Russia and Belarus) is eligible to become also a member of the Association, and also expected to join. Hence, your Ministry would be the BFUG member and at the same time a member of the Association.

Can the BFUG discuss and decide matters of finance, staff etc. be discussed in the BFUG?

The BFUG is in charge of policy and content of the EHEA, and the Association ensures the necessary organisational and financial framework for the Secretariat,

Membership fees and other contributions are paid to the Association, not to the BFUG, which has no legal personality. Therefore, formally, decisions regarding the finances or the staff of the Secretariat have to be – also – taken by the General Assembly of the Association.

But of course the BFUG can also discuss these matters if it sees the need to. It needs to be considered that BFUG members and Association members are usually the same parties and delegates, and that the General Assembly Meetings will take place as part of the BFUG meetings.

What is the role of the founding members?

It requires at least 3 founding members to establish an association in Romania. Four countries (Romania, Austria, Ireland and Norway) have agreed to become founding members.

This is a temporary task. Once the association is established, the status of founding members will not be different from that of any other full member.

Why does the European Commission have a role different from other EHEA members?

The European Commission is a regular EHEA member, it will always be eligible to become a member. But it is currently not in the position to join the Association, for legal reasons. Therefore it is suggested that the Commission becomes an observer in the association. The Commission will not pay a membership fee, but provide an operational grant to the Association, comparable to the funding it has provided to the rotating secretariats in the past.

Why do we need an observer status?

We suggest introducing this category for those BFUG members, who are principally willing to join the association, but cannot, e.g. for legal reasons (as e.g. in the case of the EC).

As they are not members, they cannot vote and do not pay the membership fee. However, they should provide in other ways an appropriate financial contribution. The Observer is not a status that any EHEA member is entitled to receive. It is up to the General Assembly to decide whether and under what condition to award it.

Consultative members cannot become observers, as they can become "consultative members".

EHEA partners retain their status in the EHEA and the BFUG, as stipulated in the ROP, but would not have any status in the Association.

Organisational structure

Which bodies are we legally required to have?

There are certain legal requirements that need to be fulfilled:

- An association must have a "**General Assembly**" that consists of its members.
- The law requires that an association has a "**Council of Directors**", i.e. a board or a committee. It is proposed in the Statutes as "Administrative Committee". It assumes

fiduciary responsibility for the association. It has an important, but also rather restricted role, in line with the general principle we propose that this body has those functions it needs to have by law and generally acts on the instruction of the BFUG and the BFUG Board. (see below)

- An association must have an **internal or external auditor**. Given the substantial amount of public funds involved, it is proposed that the association be obliged to appoint an external auditor.

How does the General Assembly (GA) relate to the BFUG?

As the association's membership mirrors the EHEA, the composition of the General Assembly will be identical, or almost identical to that of the BFUG .

The General Assembly can thus take place as part of a regular BFUG meeting. Formal and legal matters aside, there would be very little division between the BFUG and the Association GA in practice.

Why do we need an additional Administrative Committee?

As mentioned above, the law requires that an association have a "Council of Directors", which is proposed in the Statutes as "Administrative Committee".

This Committee assumes fiduciary responsibility for the association. This is an important role, for a restricted purpose: to ensure that the Secretariat is managed properly, fulfils its function in the best possible way, with the regularity and financial framework. The Committee reports regularly to the BFUG and the BFUG Board. The Committee does not decide, how the Secretariat works and what actions it takes – this is for the BFUG. But it has to indicate when work of the Secretariat does not align with the financial means and the approved budget, conflicts with roles or regulations, and is suspected to do so.

This body and its oversight role is new: it has until now been the responsibility of the country that provided the (rotating) Secretariat. In the future, this responsibility will need to be shared collectively. The Administrative Committee will oversee operational, legal and budgetary issues and of the Secretariat. This is a legal liability.

Why can this responsibility not be with the BFUG Board itself?

Legally the BFUG Board cannot be the Administrative Council: It is not a body of the Association. Hence, the Association would "outsource" an important task and responsibility to an entity, which it does not govern, and which cannot be held responsible.

Could the Administrative Committee be composed of the BFUG Board members?

If the **entire Board** serves ex-officio as the Administrative Committee;

- The Board meeting could include a section for Administrative Committee, exclude working structure co-chairs, at they are not regular Board members.
- Hence, this would be the Vice-chair, 6 co-chairs, the EC and four consultative members.
- This may include an "opt out" option – for representatives who not part of the Association, or do not want to take up this task.

With 12 members, this would be relatively large Committee. It is very unlikely that this group would naturally share the tasks and responsibilities among each other. Therefore one would need to establish within this large Committee a **subgroup, or appoint some individual members** with specific tasks.

A problem would be that the composition would change every 6 months: Co-chairs serve on the Board for 18 months, and during month 6-12, need to focus on their co-chairing tasks, on top of their work in their ministries.

An important point is that the law requires the Administrative Committee to be a stable body. This would bring additional formalities and bureaucracy, as every change of the "Council of Directors" needs to be registered with the court.Overseeing the Secretariat and assuming fiduciary responsibility requires expertise and familiarising oneself with the legal/formal context, and carries a liability.

A way out would be to establish the Committee through a **subset of the longer serving members of the Board**.

- Vice-chair (who serves for the whole period),
- the European Commission (not a member of the association, possibly an Observer)
- Consultative Members (CoE, ESU, EUA, EURASHE) – but probably only of them, as they are not members of the Association.

To bring the Committee up to the necessary size, additional members could be recruited among the co-chairs, with the understanding that when leaving the Board, they continue for the full term of the Administrative Committee.

On the other hand, what would be the rationale to involve "former Board members", instead of open these positions to all BFUG members.

Hence, this brings complications, and would of course only work if those serving on the Board would accept also to serve on the Administrative Committee of the Association, and make available time to meet with Secretariat staff, and go through the budget, etc.

In consideration of all these options, the TF came to the conclusion that

- the BFUG Board serving as the Administrative Committee is not possible, for practical and legal reasons

- all Board members serving on the Administrative Committee is not an ideal solution, given the high number, frequent changes and others task Board members, in particular the Co-chairs, have to fulfil. Board member would face a temporarily high workload, in combing their Board take with duties on the Administrative Commitee
- frequent changes in the Administrative Committee, apart from an practical challenges in organisation of the work, hand over etc., also would need to be registered at the court
- there is no subset of the Board that could become the Administrative Committee for a 3-year period
- there is actually no compelling reason, to limit participation in the Committee to Board members

How can the Administration Committee be linked to the BFUG Board?

A complementary or alternative approach is to enable the relation between the Administrative Committee and the BFUG Board.

To ensure that the Committee includes the necessary expertise and is closely linked to the BFUG Board, we propose a combination of ex-officio and individual appointments:

- the BFUG vice-chair, as the host of the next Ministerial Conference, who would serve also on the Board for a full working period.
- Three to five individuals appointed as member representatives. This could include delegates serving on the BFUG Board, but should not be limited to them. Principally, every BFUG member could be invited or offer to volunteer.
- one consultative member representative.

These 5-7 members should be appointed for one working cycle, renewable once.

In addition, it is proposed to consider the Administration Committee as a BFUG Working Structure, which would mean that it regularly reports to the BFUG, and the BFUG Board, usually via its chair.

This would ensure that at least three of the Administration Committee members are also on the Board at any given time.

Why do Administration Committee members serve in an individual capacity?

The role of overseeing the operations and finances of the EHEA Secretariat association requires specific competences and expertise. If an individual were to leave a ministry/organisation, it cannot be ensured that their successor has the same competences as required. The Administrative Committee members have also liability for their work, as usually in associations.

Hence, the TF found it preferable to link the role to an individual rather than the organisation.

At the same time, if an individual ceases being a representative of their country/organisation for EHEA-related matters, their term will also end. The new representative would not become automatically the successor (also because she/he may come new to the BFUG), would be replaced by an individual from another country.

Recommendation

It is for the BFUG to decide on how to approach this matter.

The proposal of TF, after thorough consideration, is that the BFUG may:

1. **accept the name "Administrative Committee"** – or agree on another one. In any case, this Committee will have an important, highly responsible task, but also a clear focus on ensuring a sustainable, well-functioning Secretariat. It will be in the first line in case problems emerge, in ensuring that the BFUG and the BFUG Board are informed, and it will explore and propose solutions.
2. **Select** – in addition to the Vice-chair as an ex officio Committee Member – **colleagues from the Board and BFUG**, on the basis of their competences and their readiness to take up this task for an entire working period. In a group of 5-7 people, there will be always one or two who step down prematurely (e.g. as they leave the BFUG) – this is unavoidable. But if in addition, two members are exchanged every 6 months, it might be very difficult for the Committee to establish a systematic approach in sharing tasks and working together.
   From our understanding, the law requires the Administrative Council to be a stable body responsible for legal representation, administration and continuity.
   But of course, this does not prevent a close cooperation and coordination with the BFUG Board.
3. **For the moment, do not add further detail on this matter to Statutes.** At present, the priority is to get the Association registered, in order to further process with the establishment of the Secretariat. **Therefore it** would be important to get the Statutes endorsed. The Statutes can of course be amended later on, if needed. This might be anyhow necessary, as there will be learning from the practice of the Association and the Secretariat. If it is felt that further detail or additional stipulations are needed, this could also be done through "bylaws", which could be changed by the General Assembly/BFUG, without changing the Statutes.