



Strasbourg, 21 March 2017

COMPENDIUM OF CULTURAL POLICIES AND TRENDS IN EUROPE SETTING UP A CONSORTIUM

**Input paper for the Compendium Assembly of Stakeholders and Experts
Nicosia, Cyprus, 30-31 March 2017**

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Introduction

Since February 2016, work has been underway to rethink the role and governance/business model of the "Compendium" which has worked successfully as the leading information and monitoring platform on cultural policies and related issues for almost twenty years in the form of a joint venture project of the Council of Europe and the ERICarts Institute. The agreed recommended solution, endorsed by the Council of Europe Bureau of the Steering Committee of Culture, Heritage and Landscape (CDCPP) at its meeting from 22 to 23 November 2016, has been to set up a multi-stakeholder Consortium comprising the Council of Europe and its member states, the ERICarts Institute, other research bodies and universities, foundations, etc. The Consortium would be a self-sustaining structure, putting an end to the need for annual project fundraising, and its members would pay a membership fee or provide in kind services by way of contractual obligation. A set of draft statutes for such a self-sustaining structure are appended to this document as an example (see the Appendix).

Legal personality

While there are several ways in which member States, Research Institutes, Universities and Foundations may join together, it is essential that the Consortium's format has legal personality. Legal personality is a prerequisite for legal capacity, and necessary for the Consortium to enter into and transfer rights and obligations, manage its budget, and generally carry out its daily business. A more informal network setup, for example, would not fulfil this criterion.

Functions and objectives

Identification of the most appropriate legal format should begin with an analysis of the Consortium's functions and objectives. Once the Consortium's functions and objectives

are clearly formulated, and the Consortium has a clear mandate from the stakeholders, the most appropriate legal format, such as a not-for-profit association or a foundation may be chosen. In addition to maintaining and further developing the present Compendium as a public service, functions of the Consortium could be enhanced by adding related tasks to its mandate (e.g. advisory services, providing derivative products, etc.).

Membership

In order to ensure member commitment and expertise, a list of criteria should be drawn up for membership. It will also be necessary to set out the different member types. For example, in a not-for-profit association, comprising of organs such as a Board and a General Assembly, Board members could be divided into permanent members and rotating members, to reflect different commitments and interests. In addition, where appropriate, some Consortium members could have observer status, rather than full member status. Partners from outside of Europe could join the Consortium if they are in a position to contribute meaningfully to the Compendium and its development.

Financing

A yearly budget of ca. €150 000 would guarantee the Compendium the resources necessary to maintain it, including also further content and technical development. This cost would be shared amongst the parties: the greater the number of parties, the smaller would be the party contribution. Fees could be additionally weighted, based on each party's ability to pay, so as not to exclude the participation of some potential members and therefore their cultural expertise for the Compendium project. However, if a Consortium capable of raising the minimum budget could not be formed, the Compendium would cease to exist.

Monetary resources could be complemented or replaced by contributions in kind, and this would help to lower the Consortium's running costs. For instance, Consortium members pledging to provide annual updates of country profiles could be relieved from the duty to pay membership fees. Other examples: The Council of Europe could donate the meeting room for the Consortium's annual General Assembly meeting. Other members could provide the Secretariat service, with such duties being performed by members for a period of 2 years and on a rotational basis. Other meetings throughout the year could be organized using ITC facilities such as video conferencing.

Consortium headquarters

A country should be identified for the Consortium's headquarters. In choosing this country, factors such as member State commitment to the Compendium as well as a flexible legal system for consortiums or any legal structures of this type should be taken into account.

Secretariat

The Consortium would require a Secretariat to manage its affairs, such as convening and organising meetings, keeping record of its accounts, preparing a variety of documentation, for example with a view to the Consortium's yearly audits. The Council of Europe will no longer be in a position to provide this service. As stated above under "Financing", it is suggested that members provide the Secretariat services on a rotational basis for a limited period such as two years and depending on their capacity.

Action required

With a view to the practical organisation of setting up the Consortium, the Assembly of Stakeholders is asked to:

- Contribute to the debate on the above issues
- Agree on lines of action to be translated into an Action plan
- Discuss the draft statutes in the appendix.

Appendix

Legal structure of a new Compendium Consortium

The legal structure of a new Compendium Consortium ("the Consortium") will first of all depend on its tasks and activities. The Consortium's legal format will hence follow its functions. Therefore, the first step in the process should be to define the Consortium's tasks and activities. This document contains draft statutes that may be used as a matrix for several types of collective bodies with legal personality and may even be changed into those of a foundation. For the time being these annotated draft statutes will refer to the new legal structure as "the Consortium".

Statutes of the ...

The name of the Consortium will depend on its legal form, but any terms such as "consortium", "institute" or "centre" may probably be added.

Preamble

The objective is...

A description of the Compendium and the overall reason for the creation of the Consortium.

§ 1 NAME, LEGAL FORM, DOMICILE AND BUSINESS YEAR NAME,

- (1) The name of the ... is:
- (2) The ... is headquartered in ... and shall be registered with the
- (3) Following registration, the name of the association will be:
- (4) Business year of the association is the calendar year.

The above points will depend on the domestic law of the country of the Consortium's establishment and seat.

§ 2 OBJECTIVE OF THE ...

- (1) The ...'s objective is the
- (2) The association's objective is achieved, in particular, but not limited to, through:

...

The Consortium's activities and tasks should be described here. While it will be necessary to define the activities and tasks clearly, some room should be left for possible changes not only to the "how", but also to the "what".

§ 3 NOT- FOR -PROFIT STATUS

- (1) The ... shall exclusively and directly pursue objectives of public benefit
- (2) The ... acts altruistically. It does not primarily focus on economic objectives for its own benefit.
- (3) The funds of the ... are used only to serve such purposes as are in keeping with these statutes. Members shall not receive any payments from the assets of the ... on grounds of their status as members of the
- (4) No person must be favoured by expenditures which are alien to the objective of the association or by disproportionate remuneration.

§ 4 ORGANS OF THE ...

Organs of the ... are the Board, the General Assembly and the

The General Assembly or a similar body would comprise the members of the Consortium. While most collective entities require a Board that has a steering and management function, there may also be an additional organ that may serve as a "think-tank". The members may also set up working groups with more specific tasks, such as the preparation of action plans, budget or any other substantive issues.

§ 5 BOARD

- (1) The Board shall have ... members.

Less than five (5) or more than seven (7) board members would appear to be impractical.

- (2) Each of the permanent members of the ... appoints one member of the Board. A further ... Board members are elected by the General Assembly. The Board should in principle be composed with due regard to gender and regional balance.
- (3) The General Assembly shall elect among the Board members a Chair, Vice-Chair, Treasurer and Secretary.

The Secretary would be the Board member charged with the coordination of the Consortium's activities and the day-to-day management. Otherwise the Entity would have to hire staff to carry out this work or would have to outsource these activities to a service provider.

- (4) The term of office of the Board members shall be three years; re-appointment is possible once.
- (5) The term of appointment of the Board members pursuant to para **Fehler! Verweisquelle konnte nicht gefunden werden.** sentence 1 shall be set with a view to having no more than two appointments in the same year. Consequently, the initial terms of appointment of the Board members shall exceptionally be set as follows:
- ... Board members will be appointed for a term of four years;
 - ... Board member will be appointed for a term of five years;
 - ... Board members will be appointed for a term of three years.

First mandates of three to five years should be sufficiently long to enable the Board members to acquaint themselves with the Consortium and its tasks.

The distribution of these initial terms of appointment among the first Board members will be decided by the General Assembly. All subsequent terms of appointment shall be for three years.

- (6) After expiration of the term of appointment of a Board member, the new Board member will be designated by the permanent member pursuant to ... or the General Assembly. If a Board seat becomes vacant before the respective term of appointment has expired, the permanent member or the General Assembly shall appoint a new Board member for the remainder of the term of appointment. If the remaining term of appointment is less than 18 months, re-appointment of such Board member in accordance with para 0 above is possible twice.
- (7) If the permanent member competent for the designation is no longer a member of the association, the General Assembly will designate the new Board member.
- (8) Members of the Board shall be natural persons with exceptional experience in the fields of activity of the association.
- (9) The Board will adopt rules of procedure for the ... and its organs (the "Rules of Procedure") within ... months following the establishment of the ...
- (10) Working on the Board and shall be voluntary and not be remunerated.
- (11) Members of the Board have the right to be reimbursed adequately for expenses actually incurred in the context of their activity for the ... (e.g. office supplies, telephone charges and travel expenses). The individual proof of expenses shall not be required if lump-sum payments do not or not considerably exceed the actual expenses. Lump sums may not include any work or time efforts. Reimbursements may not be unreasonably high. Further details are set out in the Rules of Procedure.

§ 6 DUTIES OF THE BOARD

- (1) The Board decides on all matters of principle, according to the statutes, and on its own authority. It supervises the administration of the ... and acts as its legal representative, representing the ... in and out of court. The association is represented jointly by two members of the Board, one of which must be the Chair or the Deputy Chair. The Deputy Chair may only act to that effect if the Chair is unavailable or incapable of action.
- (2) The duties of the Board include:
 - supervision of the administration of the ...;
 - adoption of the Membership Charter and of possible amendments thereto;
 - adoption of the Rules of Procedure and of possible amendments thereto;
- (3) The meetings and decisions of the Board are prepared by the Secretary and the Chair. The Chair convenes the meeting.

The duties of the Board reflect its role as an executive body whereas the General Assembly, as a body comprising all members, has the overall decision-making power regarding substantive matters.

§ 7 RESOLUTIONS OF THE BOARD

- (1) Resolutions of the Board are usually taken in meetings; meetings are convened as often as necessary and at least once a year upon invitation by the Chair, including an agenda, which shall be transmitted at least two weeks in advance. Additional meetings must be convened upon the request of at least ... members of the Board.
- (2) The Board is quorate if, after correct invitation, at least half of its members are present, among them the Chair or the Deputy Chair, unless the statutes require otherwise. Incorrect invitations are cured if all members are present and no objection is raised.
- (3) The Board decides by simple majority of the members present, unless the statutes require otherwise. In the event of a tie, the vote of the Chair (or in the absence of the Chair the vote of the Deputy Chair) shall be decisive.
- (4) Minutes of the Board meetings shall be prepared, agreed upon by the participating Board members and observers, signed by the minute-taker and confirmed by the Chair. These minutes have to be brought to the attention of all members of the...
- (5) Additional rules for the work of the Board shall be laid down in the Rules of Procedure.
- (6) Resolutions may be taken outside meetings if no member of the Board raises any objection. The rules for the decision-making laid down in this § and the Rules of Procedure apply *mutatis mutandis*.

DRAFT

The possibility of taking decisions outside meetings would allow for exchanges via emails or telephone or videoconferences. Those would be inexpensive means that may reduce the overall costs of the Entity's operations.

§ 8 MEMBERS OF THE ...

The ... has three categories of membership: members are either permanent members (§ 11), associate members (§ 12) or honorary members (§ 13).

Permanent members could be those that will commit themselves to provide permanent input either through in-kind or financial contributions. Associate members would be regular members, either founding members or those joining the Consortium after its establishment.

Members should be legal persons such as Governments, non-governmental organisations or local, regional or national agencies in the field. It would be useful not to restrict the participation of Governments to Council of Europe member states. It may also be useful to admit individuals as honorary members. Those would be persons with a special expertise who could provide input in Working Groups upon invitation of the Board, but who would not have the right to vote.

§ 11 PERMANENT MEMBERS

- (1) The ... are permanent members of the
- (2) The permanent members are not under any obligation to pay membership contributions.
- (3) Each permanent member may terminate its membership at the end of a calendar year via a written termination notice to the Board with a notice period of six months.

§12 ASSOCIATE MEMBERS

- (1) Associate members are either founding members or members adhering to the ... at a later stage.
- (2) The rights and responsibilities of associate members are laid down in a "Membership Charter", to be adopted by the Board, subject to these statutes. All associate members pay an annual contribution to the association, the amount of which will be determined in the Membership Charter.
- (3) Membership as associate member may be obtained by filing a written application with the Board. Membership as associate member becomes effective after confirmation by the General Assembly, taking into account the recommendation of the Board.

The associate membership can be terminated at the end of a calendar year via a written termination notice to the Board with a notice period of six weeks.

- (4) All associate members pay an annual contribution to the association, the amount of which will be determined in the Membership Charter.

This annual membership fee may cover the Consortium's own operational costs. The costs of managing the Compendium itself could be covered by voluntary contributions by the permanent or associate members.

The Consortium itself would, therefore, be self-sustaining.

§13 GENERAL ASSEMBLY

- (1) The General Assembly decides on the matters explicitly assigned to it in these statutes.
- (2) The General Assembly carries out the following duties:
- supervision of the use of the financial means of the ..., notably by approving the annual budget plans and by approving the annual accounts as prepared by the Board and audited by an independent accountant;
 - approval of the programme of activities and if needed its amendments or deviations thereto;
- (3) The ordinary General Assembly shall take place once a year.
- (4) An extraordinary General Assembly shall be convened by the Board if it is in the ...'s best interest or if one third of the associate members of the ... or two permanent members of the association so require via a written statement indicating the purpose and reasons of the extraordinary General Assembly.
- (5) All members have the right to participate in the General Assembly.
- (6) General Assemblies may be held via presence meetings or via use of information technology. Details may be outlined in the Membership Charter. In case of a digital General Assembly, the terms and conditions for participation shall also be laid down in the invitation.
- (7) The General Assembly is convened by the Chair of the Board with two weeks' notice. The invitation shall include a preliminary agenda.
- (8) The General Assembly is chaired by the Chair of the Board, in its absence by the Board's Deputy Chair. The Chair determines a minute-taker.
- (9) Minutes of the General Assembly shall be prepared, signed by the minute-taker and confirmed by the Chair of the General Assembly. The General Assembly is quorate if half of the members are present in a presence meeting or attending in case of a digital general assembly. Resolutions of the General Assembly are adopted with a majority of the valid votes. Abstentions are not counted.

§15 AMENDMENT OF STATUTES

The General Assembly may, following a proposal of the Board, amend the statutes with a majority of two thirds of its members and only with the aim of promoting the fulfilment of the ...'s objectives, provided that the ..'s objectives

remain unaltered and amendments do not substantially affect the original character of the

§16 EXPANSION AND CHANGE OF OBJECTIVES, LIQUIDATION AND OTHER CHANGES TO THE STATUTES

- (1) The Board with a majority of two thirds of its members, may propose further objectives to be adopted by the General Assembly if they are related to the original objectives and if the continued and sustainable pursuit of those objectives does not hamper the original objectives and provided that the ...'s general assets are only in part required for the fulfilment of the original objectives. Resolutions about the proposal of such amendments may only be taken in presence meetings of the entire Board.
- (2) The Board, with a majority of two thirds of its members may propose to the General Assembly a change of the ...'s objective or its liquidation if the pursuance of the ...'s objectives appears to be unreasonable or unattainable.
- (3) Any measures stated in the above paragraphs (1) and (2) require the approval of all permanent members in the General Assembly.

§17 DEVOLUTION OF ASSETS

Upon abolition or dissolution of the ..., or upon cancellation of its not-for-profit status, the net assets of the ... shall immediately and exclusively be transferred to a legal entity of public law or another tax-privileged body or foundation for the purpose of charitable activities promoting the ... as outlined in these statutes. The recipient is determined by unanimous vote of the permanent members of the ... in the General Assembly.