



**KULTUSMINISTER
KONFERENZ**

**Interstate Treaty on the organization of a joint accreditation system to
ensure the quality of teaching and learning at German higher education
institutions (Interstate study accreditation treaty)**

**(Decision of the Standing Conference of the Ministers of Education and
Cultural Affairs of the Länder in the Federal Republic of Germany
of 08/12/2016)**

Enacted on January 1, 2018

**Interstate Treaty on the organization of a joint accreditation system to ensure the
quality of teaching and learning at German higher education institutions
(Interstate study accreditation treaty)**

The Land Baden-Württemberg,
The Free State of Bavaria,
The Land Berlin,
The Land Brandenburg,
The Free Hanseatic City of Bremen,
The Free and Hanseatic City of Hamburg,
The Land Hesse,
The Land Mecklenburg-Western Pomerania,
The Land Lower Saxony,
The Land North Rhine-Westphalia,
The Land Rhineland-Palatinate,
The Saarland,
The Free State of Saxony,
The Land Saxony-Anhalt,
The Land Schleswig-Holstein and
The Free State of Thuringia

(hereinafter referred to as: “the states”)

conclude the following interstate treaty:

Article 1

Quality assurance

(1) ¹Assuring and enhancing the quality of teaching and learning is the primary responsibility of higher education institutions. ²They perform this task through internal quality assurance and enhancement measures and through the procedures set out in Article 3 paragraph 1.

(2) The states bear joint responsibility within the scope of quality assurance and enhancement for guaranteeing the equivalence of corresponding study and examination results as well as qualifications and the possibility of transfer between higher education institutions.

(3) ¹Those study programmes which have been quality assured on the basis of this interstate treaty will be recognised in all states as being equivalent under higher education law. ²Other forms of quality assurance remain unaffected.

Article 2

Basis and standards

(1) Quality assurance and enhancement must be guaranteed in particular in Bachelor's and Master's study programmes through compliance with the criteria pursuant to paragraphs 2 and 3 and the professional relevance of the qualifications.

(2) ¹Formal criteria include the structure and duration of study programmes, profiles of study programmes, admission requirements and transitions between different study provisions, qualifications and qualification designations, modularisation, mobility and the credit points system, equation of the Bachelor's and Master's study programmes with the former Diploma, state examination and Magister courses of study, measures to recognise results when changing the higher education institution or study programmes and results achieved outside higher education. ²Article 4 paragraph 2 remains unaffected.

(3) The academic criteria include

1. The qualification goals of a study programme corresponding to the intended degree level, amongst other things related to the field of the scientific/academic or artistic proficiency as well as the competence for qualified employment as well as the development of personality,
2. The conformity of the qualification goals with the coherent study programme concept and its implementation through appropriate resources, corresponding qualification of the teachers and corresponding competence-oriented examinations as well as the academic feasibility, including self-study,
3. Subject-content standards at the latest level of science and research,
4. Measures to achieve an adequate academic success,
5. Measures to ensure gender equality and to compensate disadvantages for students with a disability or chronic illness,
6. The concept of the quality management system (goals, processes and instruments) as well as the measures to implement the concept.

(4) With respect to quality assurance and enhancement, the applicable law of the state in which the higher education institution is domiciled, and in the event of a branch office, the applicable law of the state in which the higher education institution has its branch office, must be considered.

Article 3 Procedures

(1) The procedures to ensure and enhance the quality of teaching and learning relate to

1. Ensuring the performance of internal quality management systems of higher education institutions with an external involvement (system accreditation),
2. Ensuring and enhancing the quality of individual study programmes with an external involvement (programme accreditation), or
3. Other procedures agreed with the accreditation council and the respective state according to the criteria of Article 2; paragraph 2 clause¹ as well as the principles of an appropriate involvement of academia as set out in this interstate treaty and in the decrees pursuant to Article 4 apply accordingly for these procedures.

(2) ¹The procedures pursuant to paragraph 1 numbers 1 and 2 are carried out

1. At the request of the higher education institution, which is to be presented to the accreditation council or the office/authority determined in the procedure pursuant to paragraph 1 number 3,
2. On the basis of a self-evaluation report by the higher education institution, that contains details of at least the quality goals of the higher education institution as well as the criteria pursuant to Article 2 paragraph 2 and 3,
3. With the substantial participation of external, independent experts from the fields of society relevant for quality assurance, in particular representatives of science and professional practice as well as students,
4. Through an assessment and preparation of a review report with recommendations for resolutions and assessments according to the standards set out in the decree pursuant to Article 4, and
5. With the participation of professors from related subjects.

²The higher education institutions enlist the assistance of QA agencies listed in the European Quality Assurance Register for Higher Education (EQAR) and authorized by the accreditation council pursuant to Article 5 paragraph 3 number 5 for the assessment and the preparation of the review report pursuant to clause 1 number 4 on the basis of private law. ³The exclusive bases and standards for the assessment pursuant to clause 1 number 4 are the regulations of this interstate treaty and the regulations enacted on the basis of this interstate treaty.

(3) ¹The German Rectors' Conference shall develop a procedure to ensure that, when appointing the professors within the meaning of paragraph 2 clause 1 number 5, academia is sufficiently represented. ²The procedure requires the approval of the Foundation Council. ³The QA agencies are bound by this procedure with respect to the appointment of experts within the meaning of paragraph 2 clause 1 number 4.

(4) The higher education institution has the opportunity to submit a statement before the final decision pursuant to paragraph 5.

(5) ¹The final decision of the accreditation council comprises

1. The determination of compliance with the formal criteria pursuant to Article 2 paragraph 2 and

2. The determination of compliance with the academic criteria pursuant to Article 2 paragraph 3.

²The bases and standards for the decision pursuant to clause 1 are exclusively the regulations of this interstate treaty and the regulations enacted on the basis of this interstate treaty. ³The decision on the determination pursuant to clause 1 number 2 will be taken on the basis of the review report pursuant to paragraph 2 clause 1 number 4; a justified deviation is possible. ⁴The decision pursuant to clause 1 is an administrative act within the meaning of § 35 of the German Administrative Procedure Act.

(6) ¹The procedure is being documented. ²The review report and the decisions are being published in an appropriate manner.

(7) The higher education institution is free to contest the decision pursuant to paragraph 5 through recourse to the administrative courts.

(8) The accreditation council shall charge the higher education institutions fees in accordance with Article 6 paragraph 4 for the performance of the procedure pursuant to paragraph 1.

Article 4 **Decree regulating the details of the study accreditation** **(study accreditation decree)**

(1) To assure and enhance the quality of teaching and learning, the states specify the details concerning the formal criteria pursuant to Article 2 paragraph 2, the academic criteria pursuant to Article 2 paragraph 3 and the procedure pursuant to Article 3 through decrees.

(2) ¹The states can rule through decrees that the criteria pursuant to Article 2 paragraph 2 shall apply in accordance with special regulations for individual fields of study to ensure and develop the quality of teaching and learning appropriate for these fields of study. ²Fields of study within the meaning of clause 1 are, for example, artistic courses of study at colleges of art and music as well as study programmes that teach the requirements for a teacher training qualification.

(3) ¹The states determine through decrees the details of the procedures pursuant to Article 3 paragraph 1 numbers 1 and 2, in particular

1. The details of the initiation of the procedure, in particular with respect to the commissioning of the QA agency by the higher education institution,

2. The specification of a uniform structure and uniform standards for

a) the review report pursuant to Article 3 paragraph 2 clause 1 number 4 and

b) the formal report on compliance with the formal criteria,

3. The composition of the panel responsible for the assessment and preparation of the review report pursuant to Article 3 paragraph 2 clause 1 number 4,
4. The professional requirements on the experts,
5. The period of validity of the accreditation decision (re-accreditation terms),
6. The prerequisites for withdrawal of an accreditation or re-accreditation, as well as
7. Details of the combination with professional licensing procedures and on the implementation of common training frameworks pursuant to Article 49 a of Directive 2005/36/EC, in the latest version.

²The decrees pursuant to clause 1 stipulate that when specifying the academic criteria that apply in the individual procedures, professors within the meaning of Article 3 paragraph 2 clause 1 number 5 must have the majority of votes in the panel responsible for the assessment.

(4) The states can also determine the details of the procedures pursuant to Article 3 paragraph 1 number 3 through decrees

(5) The states can make regulations on the charges to be levied by the agencies, especially on the facts on which the charges are based, the amount of the charges and the calculation of the charges through decrees; fixed rates or framework charges can be stipulated.

(6) The decrees pursuant to paragraphs 1, 2, 3 and 5 must be consistent wherever this is necessary to ensure the obligation of the states pursuant to Article 1 paragraph 2.

Article 5 Foundation Accreditation Council

(1) ¹The Foundation for the Accreditation of Study Programmes in Germany, set up by the North Rhine-Westphalian Law establishing a foundation “Foundation for the Accreditation of Study Programmes in Germany” of February 15, 2005 (GV: (laws and regulations gazette) NRW. p. 45), last amended by the law of September 16, 2014 (GV. NRW. p. 547), bears the name “Foundation Accreditation Council”. ²The Foundation Accreditation Council is a joint institution of the states for the accreditation and quality assurance in teaching and learning at German higher education institutions. ³The Land North Rhine-Westphalia will amend its law on the creation of a foundation “Foundation for the Accreditation of Study Programmes in Germany” in accordance with the following provisions. ⁴The foundation has is located in Bonn. ⁵It carries an official seal, regulated by its statutes.

(2) The states discharge their tasks pursuant to Article 1 paragraph 2 through the foundation and thus fulfil their overall state responsibility in the higher education sector to guarantee the equivalence of corresponding study and examination results as well as qualifications and the possibility of transfer between higher education institutions.

(3) The foundation serves to fulfil the following tasks:

1. The accreditation and re-accreditation of study programmes and internal quality assurance systems as well as other quality assurance procedures agreed with the

accreditation council and the respective state on the basis of the criteria of Article 2 through the award of the foundation's seal.

2. It determines the requirements for the recognition of accreditations through foreign institutions, taking the developments in Europe into consideration .

3. It promotes international cooperation in the field of accreditation and quality assurance.

4. It reports to the states regularly on the development of the two-cycle study system and the quality enhancement within the scope of accreditation.

5. It authorizes the agencies within the meaning of Article 3 paragraph 2 clause 2. As a requirement for the authorization the agency must prove that it is reliably able to exercise the tasks of the assessment and the preparation of the review report; this is refutably assumed for agencies that are listed in the EQAR.

6. It supports the states in the further development of the German quality assurance system and makes suggestions for the decrees to be enacted pursuant to Article 4.

Article 6

Foundation assets, fees

(1) ¹In order to fulfil the purpose of the foundation (Article 5), the foundation receives an annual subsidy from the states . ²The amount is raised by the states according to the distribution formula known as the "Königstein" formula in the latest version. ³The subsidy will only be conferred if the foundation's administrative work cannot be covered by fees pursuant to paragraph 4. ⁴The shares to be contributed by the states are due in the course of each budget year in two instalments on January 1 and July 1 according to the estimates of the economic plan.

(2) The foundation is entitled to accept third-party donations.

(3) Proceeds from the foundation's assets and other earnings may only be used to promote the foundation's purpose.

(4) ¹In order to cover its administrative costs the foundation can charge fees for the performance of the procedures pursuant to Article 3 paragraph 1 and Article 5 paragraph 3 number 5 according to the precise terms of the fee statutes. ²The fee statutes must specify at least the facts on which the fee is based, the rate as well as its due date. ³§§ 3 to 5, 9 to 22 of the Fees Act for the Land North Rhine-Westphalia apply accordingly, unless otherwise specified in the fee statutes. ⁴The fee statutes are resolved by the foundation council with the involvement of the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany.

Article 7

Statutes; rules of procedure

(1) ¹The foundation assigns itself statutes that are resolved by the foundation council with a two thirds majority of its members and that require the approval of the Ministry of Innovation, Science and Research of the Land of North Rhine-Westphalia; these are

published in the ministerial gazette for the Land North Rhine-Westphalia. ²The same applies for amendments to the statutes.

(2) The statutes regulate in particular the representation of the foundation's bodies, the principles of cooperation between its bodies as well as details of the objectives and terms of operation of the accreditation council, of incompatibilities between membership in the accreditation council and an agency, of the economic plan and annual financial statement, of the approval of the activities of the Board and the evaluation of the foundation's work.

(3) The foundation's bodies can assign themselves rules of procedure in accordance with the statutes.

Article 8 Foundation bodies

(1) The foundation bodies are

1. The accreditation council,
2. The Board,
3. The Foundation Council.

(2) The bodies must pay attention to gender-specific consequences in all of its suggestions and decisions (gender mainstreaming).

Article 9 Accreditation Council

(1) ¹The accreditation council resolves all of the foundation's matters. ²In particular it accredits and re-accredits the study programmes and internal quality assurance systems at German higher education institutions pursuant to Article 3 paragraph 5; the accreditation and re-accreditation can be enacted with a proviso or a revocation reservation or combined with a condition or the reservation of the subsequent inclusion, amendment or extension of a condition. ³It reaches its decisions with the majority of its votes. ⁴The foundation's current affairs are deemed to be transferred to the Board, unless the accreditation council reserves a decision for a certain group of transactions or for an individual case.

(2) ¹Members of the accreditation council are:

1. Eight professors from state or state-recognised higher education institutions in the Federal Republic of Germany who have to represent at least four groups of subjects from the humanities, social sciences, natural sciences and engineering sciences,
2. One representative of the German Rector's Conference,
3. Four representatives of the states in the Federal Republic of Germany,
4. Five representatives from professional practice, one of whom is a representative of the state ministries responsible for service and collective bargaining law,

5. Two students,
6. Two foreign representatives with accreditation experience,
7. One representative of the agencies in an advisory capacity.

²The members pursuant to clause 1 number 1 are appointed for a period of four years by the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (Standing Conference of the Ministers of Education and Cultural Affairs) at the suggestion of the German Rector's Conference. ³When making its suggestions, the German Rector's Conference ensures that the different types of higher education institutions and the diversity of subjects are taken into appropriate account and that the professors are not university executives. ⁴The members pursuant to clause 1 numbers 2 and 5 are nominated by the German Rector's Conference, the members pursuant to clause 1 number 3 by the Standing Conference of the Ministers of Education and Cultural Affairs, the representative of the state ministries responsible for service and collective bargaining law pursuant to clause 1 number 4 by the Standing Conference of the Ministers of Education and Cultural Affairs in agreement with the Standing Conference of Ministers and Senators of the Interior of the Länder, the other members pursuant to clause 1 numbers 4 and 6 jointly by the Standing Conference of the Ministers of Education and Cultural Affairs and the German Rector's Conference and the member pursuant to clause 1 number 7 by the agencies authorized by the accreditation council and then appointed unanimously by the Standing Conference of the Ministers of Education and Cultural Affairs and the German Rector's Conference for a period of four years; the statutes can stipulate a shorter period of office for the students. ⁵Multiple re-nominations and re-appointments are possible. ⁶If a member retires prematurely, the new member is nominated and appointed straight away until the end of the current period of office; the statutes regulate any exceptions. ⁷At the end of the period of office the members remain in office until the new member is appointed; clause 6 semi clause 2 applies accordingly. ⁸Members can be removed from the foundation council for good cause. ⁹The members pursuant to clause 1 number 1 to 6 can assign their vote to another member of the respective group of members.

(3) ¹The accreditation council selects its chairperson and their deputy from the members pursuant to paragraph 2 clause 1 numbers 1, 2 or 3 for a period of four years. ²They cannot be members of the same group pursuant to paragraph 2 clause 1 numbers 1, 2 or 3. ³Paragraph 2, clauses 5 to 7 apply accordingly.

(4) In the case of votes on matters of the kind named in Article 3 paragraph 5 clause 1 number 2, the members have a double vote pursuant to paragraph 2 clause 1 number 1, which may only be cast en bloc.

(5) ¹The member of the accreditation council shall act in an honorary capacity. ²They shall receive adequate reimbursement for their expenses and may receive an expense allowance.

(6) Further details, in particular on the resolution requirements and the enlistment of further advisory members, shall be regulated by the statutes.

Article 10 Board

(1) ¹The Board executes the resolutions of the accreditation council and conducts the current affairs of the foundation; as for the rest, the powers of the Board are determined by the statutes. ²The chairperson of the Board represents the foundation both in and out of courts and in individual cases and may be represented in individual cases or for a group of transactions.

(2) The Board consists of:

1. The chairperson of the accreditation council as chairperson,
2. The deputy chairperson of the accreditation council,
3. The managing director of the foundation.

(3) Any further details are regulated by the statutes.

Article 11 Foundation council

(1) The foundation council monitors the lawfulness and economic efficiency of the management of the foundation's business by the accreditation council and the Board .

(2) ¹The foundation council consists of:

1. Six representatives of the states,
2. Five representatives of the German Rector's Conference.

²The members pursuant to clause 1 number 1 are appointed by the Standing Conference of the Ministers of Education and Cultural Affairs, the members pursuant to clause 1 number 2 by the German Rector's Conference for a period of four years. ³Article 9 paragraph 2 clauses 5 to 7 apply accordingly. ⁴A vote can be transferred to another member of the respective group of members pursuant to clause 1. ⁵The members of the foundation council may not be members of the accreditation council at the same time.

Article 12 Head office of the foundation

(1) ¹The foundation maintains an office at its headquarters that is managed by the Managing Director. ²This supports the execution of the foundation's business and is subject to instruction from the chairperson of the Board.

(2) ¹The superior of the foundation's employees is the chairperson of the Board. ²The collective bargaining agreements and other provisions of the home state that are applicable for employees shall apply for them. ³The general labour and civil service law

regulations shall apply with respect to the supervisory office for the chairperson of the Board.

Article 13

Economic management, accounting

(1) Part VI of the state budget regulation of the Land North Rhine-Westphalia in the latest version applies for the budgetary law of the foundation unless defined otherwise in this interstate treaty.

(2) ¹The Board must draw up a business plan in due time before the beginning of each calendar year (business year) that is established by the accreditation council with the consent of the foundation council, whose consent assumes the consent of the majority of its members pursuant to Article 11 paragraph 2 clause 1 number 1. ²The economic plan forms the basis for the revenues and expenditures; an overview of the foundation's human resources shall be enclosed as an Appendix. ³If the state draws up a budget for two or more years, it should be proceeded accordingly with respect to the economic plans. ⁴ The foundation's economic plan requires the consent of the Standing Conference of the Ministers of Education and Cultural Affairs and the Conference of Ministers of Finance with a two thirds majority.

(3) ¹The Board must prepare the annual financial statement within six months of the end of the business year and submit this to the accreditation council and the foundation council together with the auditor's report, the statement of assets and liabilities as well as the activity report. ²Any further details are regulated by the statutes.

(4) The foundation's budget audit and accounting shall be audited by the court of audit of the home state.

(5) As for the rest, the legislation of the home state with respect to budgeting, cash accounting, general accounting and auditing as well as the corresponding administrative provisions shall apply.

Article 14

Supervision

¹The foundation is subject to legal supervision of the Ministry of Innovation, Science and Research of the Land North Rhine-Westphalia. ²§ 76 paragraph 2 to 4 of the law governing the higher education institutions of the - North Rhine-Westphalia of September 16, 2014 (GV. NRW. p. 547) apply accordingly.

Article 15

Evaluation

The accreditation system shall be evaluated on behalf of the Standing Conference of the Ministers of Education and Cultural Affairs and the German Rector's Conference, in particular with respect to the organisational structure and work of the foundation as well as

the other rules of procedure, regularly and at appropriate intervals, for the first time five years after this interstate treaty comes into effect.

Article 16

Transitional provisions

(1) ¹Insofar as programme accreditation or system accreditation procedures have already begun at the time this interstate treaty comes into effect, the law applicable until this treaty came into effect shall apply for the performance of this accreditation procedure, subject to any other regulations in the decree pursuant to paragraph 2. ²A programme accreditation or system accreditation has begun within the meaning of clause 1 as soon as the higher education institution concludes an agreement on the execution of the programme accreditation or system accreditation with the agency. ³Agencies within the meaning of clause 2 are those agencies that have been accredited by the Foundation for the Accreditation of Study Programmes in Germany pursuant to § 2 paragraph 1 number 1 of the law on the creation of a foundation “Foundation for the Accreditation of Study Programmes in Germany” of February 15, 2005 (GV. NRW. p. 45), last amended by the law of September 16, 2014 (GV. NRW. p. 547).

(2) ¹The states are authorized to settle the details of the transition between the law applicable for the accreditation procedure and the law applicable according to this interstate treaty through decrees. ²Furthermore, the states are authorized to settle the details of the continued application of the law applicable until this interstate treaty came into effect for the period between when this interstate treaty comes into effect and the decrees pursuant to Article 4 come into effect through decrees. ³The decrees pursuant to clauses 1 and 2 must be consistent wherever this is necessary to ensure the obligation of the states pursuant to Article 1 paragraph 2.

Article 17

Colleges of cooperative education; church agreements

(1) ¹The regulations of this interstate treaty and regulations enacted on the basis of this interstate treaty apply accordingly for state and state-recognised colleges of cooperative education. ²Training courses at state and state-recognised colleges of cooperative education are deemed to be study programmes within the meaning of this interstate treaty.

(2) The legal frameworks and agreements covering the relation between the State and the churches remain unaffected.

Article 18

Concluding provisions

(1) ¹ This interstate treaty is concluded if it is signed by at least 15 heads of government of the contracting states. ² It comes into effect on the first day of the month following the

month in which the last instrument of ratification of a contracting state pursuant to clause 1 is received by the state chancellery of the foundation's home state.

(2)¹ A state that has not signed the interstate treaty by the time it comes into effect pursuant to paragraph 1 clause 2 can accede to the interstate treaty at a later date through signing. ² To this end, it sends a declaration signed by the head of government of the state to the state chancellery of the foundation's home state, stating that the state wishes to accede to the interstate treaty in the version applicable at this point in time. ³ The accession is completed as soon as the acceding state has deposited the instrument of ratification with the state chancellery of the home state.

(3)¹ This interstate treaty can be terminated by each state through a written declaration to the other contracting states at the end of each calendar year with one year's notice. ²The termination must be declared in writing to the chairperson of the Conference of the Presidents of the Länder. ³The termination by one state does not affect the contractual relationship between the remaining states, though each of the remaining states can terminate the contractual relationship at the same time within three months of receipt of notification of the termination declaration by the chairperson of the Conference of the Presidents of the Länder.

For the Land Baden-Württemberg:
Berlin, June 1, 2017 Winfried Kretschmann

For the Free State of Bavaria:
Berlin, June 1, 2017 Horst Seehofer

For the Land Berlin:
Berlin, June 1, 2017 Michael Müller

For the Land Brandenburg:
Berlin, June 1, 2017 Dietmar Woidke

For the Free Hanseatic City of Bremen:
Berlin, June 1, 2017 Carsten Sieling

For the Free and Hanseatic City of Hamburg:
Berlin, June 1, 2017 Olaf Scholz

For the Land Hesse:
Berlin, June 1, 2017 Volker Bouffier

For the Land Mecklenburg-Western Pomerania:
Schwerin, June 6, 2017 Erwin Sellering

For the Land Lower Saxony:
Berlin, June 1, 2017 Stephan Weil

For the Land North Rhine-Westphalia:
Düsseldorf, June 20, 2017 Hannelore Kraft

For the Land Rhineland-Palatinate:
Berlin, June 1, 2017 Malu Dreyer

For the Saarland:
Berlin, June 1, 2017 Annegret Kramp-Karrenbauer

For the Free State of Saxony:
Berlin, June 1 2017 Stanislaw Tillich

For the Land Saxony-Anhalt:
Berlin, June 1, 2017 Reiner Haseloff

For the Land Schleswig-Holstein:
Kiel, June 12, 2017 Torsten Albig

For the Free State of Thuringia:
Berlin, June 1, 2017 Bodo Ramelow

Substantiation of the interstate treaty

on the organization of a joint accreditation system to ensure the quality of teaching and learning at German higher education institutions (Interstate study accreditation treaty)

I. General

A key element of the Bologna Process, introduced at the end of the 1990ies is external quality assurance in teaching and learning according to common European standards as a guarantee for a high quality of studies in the European Higher Education Area. Based on this, the German Rector's Conference and the Standing Conference of the Ministers of Education and Cultural Affairs agreed on the accreditation of two-cycle study programmes in 1998 as a science-led quality assurance system for teaching and learning to guarantee academic standards and the professional relevance of higher education qualifications. In this system, the state discharges its responsibility for higher education through the "Common structural guidelines of the Länder for the accreditation of Bachelor's and Master's study courses pursuant to § 9 para. 2 Framework Act for Higher Education (HRG)", which are to be taken as a binding basis for the accreditation.

With the agreement on the foundation "Foundation for the Accreditation of Study Programmes in Germany" of December 16, 2004 the states have transferred the duties of the accreditation council to a foundation - "Foundation for the Accreditation of Study Programmes in Germany", which is to be established as a foundation with legal capacity under public law in accordance with the law of the Land North Rhine-Westphalia. For Bachelor's and Master's study programmes at state and state-recognised higher education institutions as well as Bachelor's training courses at state and state-recognised colleges of cooperative education they have also transferred the execution of their tasks during the enforcement of the common structural guidelines pursuant to § 9 para. 2 HRG to the foundation. Consequently, North Rhine-Westphalia enacted the law on the establishment of a foundation "Foundation for the Accreditation of Study Programmes in Germany" of February 15, 2005, which came into force on February 26, 2005.

In a resolution of February 17, 2016, the Federal Constitutional Court has now reached a fundamental decision on the legal requirements for the accreditation system. In terms of content, the approach of binding external quality assurance of teaching through accreditation has been confirmed, including not only scientific and subject-related and professional criteria, but also the assessment of the organisation of the study programme, the academic requirements and the academic suc-

cess. However, shortcomings are seen in the legal implementation since the key decisions for an accreditation have to be taken by the legislature itself. This includes the standardisation of content-related as well as procedural and organisational requirements on the accreditation, the adequate scientific composition of the protagonists, as well as the procedures to set out and revise the assessment criteria. The court hereby not only judged the regulations in the North Rhine-Westphalian Higher Education Act, on which the decision is based, to be unconstitutional, but also the accreditation foundation law and the reference to this that is only based on an executive basis in the corresponding agreements of the Standing Conference of the Ministers of Education and Cultural Affairs. The (North Rhine-Westphalian) legislature was given the task of coming up with a revision by December 31, 2017 that satisfies the requirements of Art. 5 para. 3 clause 1 German Basic Law (GG) in conjunction with the principle of democracy and the rule of law. The existing regulations continue to apply up until this point in time.

With this in mind, the Standing Conference of the Ministers of Education and Cultural Affairs pronounced itself in favour of a joint procedure for all states with the goal of an overall nationwide solution. The focus here is on the implementation of the requirements defined by the court, in particular the creation of a satisfactory legal basis for a quality assurance system. In a resolution of June 17, 2016, the Standing Conference of the Ministers of Education and Cultural Affairs acknowledge accreditation as a form of external quality assurance. It confirmed a need for action on the part of the states and considered the implementation of the necessary legal regulations in accordance with the stipulations of the Federal Constitutional Court to be urgent. It also sees the necessity for the further optimisation of the accreditation system and has therefore agreed to review not only the suggestions for the legal implementation of the stipulations of the Federal Constitutional Court, but also suggestions related to making the external quality assurance system more flexible and for greater freedoms for the higher education institutions as well as for a streamlining of the procedures and a reduction of the workload and therefore the costs too.

This present interstate treaty creates the legal basis for an accreditation system that is based on the following guiding principles:

- Primary responsibility of the higher education institutions for quality assurance and enhancement in teaching and learning
- Accreditation as an external, science-led quality assurance system for teaching and learning to guarantee academic standards and the professional relevance of higher education qualifications
- Assumption of the state's responsibility for the equivalence of corresponding study and examination results as well as qualifications and the possibility of transfer between higher education institutions pursuant to § 9 para. 2 HRG within the scope of the accreditation system
- Programme and system accreditation as instruments of accreditation and the option of the continued development of quality assurance through accreditation (trial clause)
- Compatibility with the standards and guidelines for quality assurance in the European Higher Education Area agreed at a European level (ESG).

II. On the individual regulations

Article 1 Quality assurance

The interstate treaty only relates to accreditation as one possible form of quality assurance and enhancement in teaching and learning that has been proven in its previous form and that is not doubted as a result of the resolution of the Federal Constitutional Court. Apart from quality assurance through accreditation, there is leeway for other quality assurance options (though these do not achieve the effects associated with the interstate treaty).

Para. 1 emphasises the primary responsibility of higher education institutions for quality assurance and enhancement in teaching and learning. Para. 2 expresses the state's responsibility pursuant to § 9 para. 2 HRG for the structural homogeneity of the higher education system as a basis for the recognition of qualifications and for guaranteeing mobility.

Para. 3 stipulates the mutual recognition of study programmes which have been quality assured on the basis of the interstate treaty.

Article 2 Basis and standards

Art. 2 allows an integration of courses other than Bachelor's or Master's study programmes into the accreditation and this takes account of developments in system accreditation, which in some cases already includes study programmes with state examinations. The regulation is worded in neutral terms and therefore applies for all forms of accreditation.

Art. 2 adopts the former goals of accreditation: compliance with formal criteria, academic standards and professional relevance, but does, however, distinguish between formal criteria on the one hand and criteria for the academic standards on the other, which include the professional relevance, whereby a peer review advisory and assessment procedure is stipulated for the latter.

The formal criteria (para. 2) take up the core elements of the common structural guidelines in key words. The academic criteria (para. 3) are listed in a catalogue of goals. This is essentially based on the former rules of the accreditation council and names criteria that are also expressly mentioned by the Federal Constitutional Court as possible admissible criteria. Compliance with the formal and academic criteria must be demonstrated by the higher education institution in a self-evaluation report (see Art. 3 para. 2 number 2).

Para. 2 and 3 only mention the indispensable criteria that are established through jurisdiction, whereby the specification that is also required according to the stipulations of the Federal Constitutional Court is reserved for a corresponding decree by the states (enabling provision in Art. 4). This unburdens the interstate treaty and reduces the risk of complicated amendment procedures. The consistency that is also required with respect to the specification is to be guaranteed by a specimen decree that is to be drafted within the scope of the Standing Conference of the Ministers of Education and Cultural Affairs.

Para. 4 contains a legal clarification that regulations under state legislation, in particular examination law regulations, for example, are not suspended by the inter-

state treaty and may also have to be taken into account during the accreditation. This clause has its basis in former experience with the accreditation council and agencies.

Article 3 Procedures

Art. 3 para. 1 defines the possible instruments of accreditation (system and programme accreditation), with no preference for a certain procedure, and at the same time opens up the possibility for other types of accreditation that are also bound by the criteria pursuant to Art. 2 (trial clause). Moreover, also for these procedures, for which the criteria of Art. 2 apply, compliance with European quality standards (ESG) with a view to the involvement of academia in accordance with the regulations of the interstate treaty, is stipulated through reference to para. 2 clause 1. The accreditation council can only refuse its approval during agreement with the state if the procedures do not comply with Art. 2, with para. 2 clause 1 or with the principles of an appropriate involvement of academia as stipulated in this interstate treaty and in the decree pursuant to Art. 4.

Para. 2 standardises the requirements on the programme and system accreditation procedures including the involvement of all relevant stakeholders and professors from related subjects in the assessment performed by agencies listed with EQAR and authorized by the accreditation council. The specifications of para. 2 clause 2 (agency obligation) do not apply for alternative procedures within the meaning of para. 1 number 3.

Also the further details of the procedures are left up to the decrees of the states for the reasons explained in Art. 2.

Para. 3: The development of an adequate scientific procedure to appoint the assessing professors is transferred to the German Rector's Conference (HRK), which already practices established and proven methods within the scope of the German Research Foundation (DFG). Further details of the professional requirements on the experts are to be stipulated in the decrees (Art. 4 para. 3 clause 1 number 4). As a result, no detailed regulations on attracting experts are needed in the interstate treaty. The procedure requires the approval of the foundation council, in which

the states constitute the majority. The agencies are bound by the procedure.

Para. 4 grants the institutions of higher education a right to submit a statement before the final decision of the accreditation council.

Para. 5: Divergent from the former accreditation procedure practice, a differentiation shall be made in future between the assessment and the preparation of the report with recommendations for resolutions and assessments on the one hand, which are to be carried out by the agencies (system and programme accreditation), and the accreditation decision on the other, which will be taken by the accreditation council. This measure serves the deregulation and increase in efficiency since it encourages a consistent decision-making practice on the basis of given criteria, by doing away with the agency standards, which were often very different in the past. Moreover, clear legal relationships are established between the private-law agencies as service providers for the higher education institutions and the accreditation council that exercises public authority. The accreditation decision is expressly defined as an administrative act (para. 5 clause 4), against which appeals can be lodged in the administrative courts (para. 7). A deviation from the recommendations for resolutions and assessments requires justification.

The splitting of the decision that concludes the procedure in para. 5 into the determination of the formal criteria on the one hand and the academic criteria on the other, follows the separation of these criteria in Art. 2 in terms of content. But this separation also serves procedural economy: the formal criteria require no verification by the agency's experts, their fulfilment is verified by the agency's office itself and this prepares the formal report. The peer-review only relates to the academic part. This discharges the experts from assessing purely formal criteria. Furthermore, the interstate treaty also takes up this separation when determining the qualified majorities of the professors involved. These are only needed for decisions related to academic questions (Art. 4 para. 3 clause 2).

Para. 8: The accreditation council charges the higher education institutions fees for the performance of the accreditation procedure in accordance with the fee statutes (Art. 6 para. 4). This has the following consequences for the higher education institutions and the accreditation system on the whole: Apart from the fees for the ac-

creditation decision, the higher education institutions incur costs for the assessment by the agencies. However, these are reduced compared to former charges through the omission of the decision-making function since the procedures for the agencies do not need to be so complex, thus reducing the workload. In addition, the interstate treaty may allow the charges incurred by the higher education institutions for the assessment by the agencies to be limited. The enabling provision to issue decrees provides for the possibility of regulating the agency charges to achieve the intended reduction of costs (Art. 4 para. 5).

The transfer of the accreditation decision to the accreditation council is also relevant for the costs in principle since the controlling of the report with recommendations for resolutions and assessments in order to prepare the decisions for the accreditation council generates work for the head office of the accreditation council. However, this is opposed by a significant reduction of work and therefore costs, which in particular results from

- The significant decline in programme accreditations on account of the increasing trend for system accreditation
- The omission of the previous procedure to monitor the accreditation processes
- The waiver of an accreditation of agencies in favour of a formal authorization procedure based on membership in the European Quality Assurance Register for Higher Education (EQAR), Art. 5 para. 3 number 5
- The comprehensive shift to less complicated re-accreditations in the programme accreditation
- The extension of the re-accreditation terms that are stipulated in the decrees.

With this in mind, it can be assumed that the costs for the higher education institutions as well for the overall system will at least not rise, and that it is likely that when the aforementioned framework becomes effective, they could even fall.

Para. 6 regulates the documentation and publication obligations.

Article 4 Decree regulating the details of the study programme accreditation

Art. 4 contains the power to issue decrees for the specification of the formal and the academic criteria as well as the procedure, in particular to guarantee uniform standards for the preparation of the report with recommendations for resolutions and assessments as well as the formal report on compliance with the formal criteria. These are requirements for a speedy processing, in particular of programme accreditations by the accreditation council, and the basis for the much more relaxed authorization compared to the former accreditation of agencies.

Possible contents of the decrees are regulations with respect to the formal criteria are the common structural guidelines, in a modified form, where appropriate. Specifications of the procedure should be aligned to the ESG.

Special regulations can be stipulated for individual areas of study in the decrees. This concerns in particular teacher training programmes as well as artistic study programmes at colleges of art and music (para. 2). Special regulations with respect to the accreditation procedure, e.g. for teacher training programmes, may be stipulated in para. 3 number 7.

Further matters that can be regulated in the decrees include

- The accreditation and re-accreditation terms
- The subject-specific requirements on the experts
- The conditions on which an accreditation or a re-accreditation can be withdrawn
- Ensuring the majority of votes for professors in the agencies.

Para. 4: The decrees can also regulate details of the alternative accreditation procedures approved within the scope of the trial clause pursuant to Art. 3 para. 1 number 3 – state specific if necessary.

Para. 5 also provides for the possibility of enacting regulations within the scope of the decrees on the charges to be levied by the agencies to enable a limitation of the costs. A corresponding legislative competence of the states results from a competence ancillary to higher education law.

Para. 6 stipulates the consistency of the decrees with regard to the regulation of formal criteria, the special regulations for certain fields of study, the procedures as well as the charges to be levied by the agencies, wherever this is necessary to guarantee the state responsibility within the meaning of Art. 1 para. 2 as a principle for mutual recognition and the guarantee of mobility

Article 5 Foundation Accreditation Council

Art. 5 takes over the content of the agreement of the Standing Conference of the Ministers of Education and Cultural Affairs on the foundation "Foundation for the Accreditation of Study Programmes in Germany" of December 16, 2004 (assumption of the overall state responsibility of the states through the foundation) and describes the tasks of the foundation.

According to Art. 5 para.-1, the existing Foundation for the Accreditation of Study Programmes in Germany will not be dissolved. Instead, this foundation will in future be continued as a joint institution of the states under the new name "Foundation Accreditation Council ". This will be legally implemented through an amendment of the North Rhine-Westphalian law on the establishment of a foundation of February 15, 2005.

The main task of the foundation is the accreditation and re-accreditation of study programmes and internal quality assurance systems as well as other accreditation procedures approved within the scope of the trial clause by awarding the foundation's seal . According to para. 3 number 5, the authorization of agencies will replace the former accreditation of agencies, which will be made subject to proof of reliability analogous to the economic administrative law as specified by trade law. The term reliability has been sufficiently defined in jurisdiction so that it should be admissible within the scope of a provision that regulates professions. For reasons of European law, the assumption of reliability applies for agencies registered with the EQAR, though this can be refuted (reversal of the burden of proof).

The further tasks of the foundation essentially correspond to the currently applicable foundation law.

Article 6 Foundation assets, fees

Essentially corresponds to the previous legal situation; the Standing Conference of the Ministers of Education and Cultural Affairs is to be involved in the adoption of the resolution relating to the fee statutes by the foundation council.

Article 7 Statutes; rules of procedure

Corresponds to the previous legal situation

Article 8 Foundation bodies

Corresponds to the previous legal situation

Article 9 Accreditation Council

Art. 9 (1) regulates the tasks of the accreditation council, which in particular accredits and re-accredits study programmes and internal quality assurance systems. According to this new function, academia is now represented by eight professors from state or state-recognised higher education institutions. This takes into account the requirement of the Federal Constitutional Court for an adequate academic composition. Additionally, the German Rector's Conference is represented with one member. In addition, para. 4 stipulates a double vote for the representatives of academia in decisions related to compliance with the academic criteria to ensure the necessary majority of academia in accordance with the stipulations of the Federal Constitutional Court. Unlike the former applicable regulation, the representatives of academia must belong at least to the four large groups of subjects from the humanities, social sciences, natural sciences and engineering sciences. This regulation leaves room for representatives from other fields of study that are not covered here (e.g. art).

Article 10 Board

Corresponds to the previous legal situation

Article 11 Foundation council

Corresponds to the previous legal situation

Article 12 Head office of the foundation

Corresponds to the previous legal situation

Article 13 Economic management, accounting

Corresponds to the previous legal situation and decisions of the Standing Conference of the Ministers of Education and Cultural Affairs. The specification relating to a quorum for the approval of the foundation's economic plan relates to the Conference of Ministers of Finance.

Article 14 Supervision

Corresponds to the previous legal situation

Article 15 Evaluation

This regulation stipulates a regular evaluation of the accreditation system on behalf of the Standing Conference of the Ministers of Education and Cultural Affairs and the German Rector's Conference.

Article 16 Transitional provisions

According to Art. 18, the interstate treaty comes into effect in the month after the last instrument of ratification has been submitted. For the period after the interstate treaty comes into effect it has to be decided which legislation applies for those accreditation procedures that are still ongoing and have not been concluded at the time the interstate treaty comes into effect., According to para. 2, these are those regulations that applied for the accreditation of study programmes until the interstate treaty came into effect.

Furthermore, after the interstate treaty has come into effect, the decrees pursuant to Art. 4 have to be adopted. Flexible decisions have to be able to be taken as to which law shall be applicable with respect to the accreditation for the period between the coming into effect of this interstate treaty and the coming into effect of these decrees. This is taken into account by the decrees authorisation pursuant to para. 2.

Article 17 Colleges of cooperative education; church agreements

Para. 1 ensures that those courses at state and state-recognised colleges of cooperative education leading to Bachelor's degrees that have been included in the accreditation up to now, are also included in the interstate treaty.

Para. 2 stipulates exceptions for study programmes that are subject to legal frameworks and agreements covering the relation between the State and the churches. This concerns the study programmes in theology and guarantees compliance with the “Key Points for the Structure of Studies in Study Courses involving Catholic and Protestant Theology/Religion” resolved in agreement with the churches on December 13, 2007 with respect to the accreditation.

Article 18 Concluding provisions

Para. 1 with some editing corresponds to the regulation in the interstate treaty on the establishment of a joint Higher Education Admissions Centre, , without the regulations on the consequences of the termination of the interstate treaty stipulated therein.

Para. 2 includes an accession clause.

If this interstate treaty is terminated by a state, this shall not affect the contractual relationship that exists between the remaining states (para. 3).