

Establishment of a Foundation
for the Accreditation of Study Courses in Germany

Agreement on the Foundation

“Foundation: Accreditation of Study Courses in Germany”

(Resolution of the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany of 16 December 2004)

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 the Länder) conclude the following agreement on the basis of the “Key points for the further development of accreditation in Germany” agreed at the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany on 15 October 2004:

1.

The tasks of the Accreditation Council will be transferred to a foundation under public law, “Foundation: Accreditation of Study Courses in Germany”, having legal capacity and to be established in accordance with the law of the Land of North-Rhine/Westphalia. On entry into force of the law, the current statute for an accreditation procedure across the Länder and across higher education institutions (resolution of the Standing Conference of the Ministers of

Education and Cultural Affairs of 24 May 2002 in the version of 15 October 2004) will be rescinded.

2.

The Länder will transfer to the Foundation the observance of their tasks in fulfilling the common structural guidelines in accordance with Article 9 Clause 2 of the Framework Act for Higher Education (HRG) for the study and training courses set out by resolution of the Standing Conference of the Ministers of Education and Cultural Affairs. The Länder may, by resolution of the Standing Conference of the Ministers of Education and Cultural Affairs, retract the transfer of the observance of their tasks to the Foundation in fulfilling the common structural guidelines in accordance with Article 9 Clause 2 of the Framework Act for Higher Education (HRG).

3.

The Office of the Foundation will be linked organisationally to the University of Bonn.

4.

The Länder will finance the Foundation subject to the provision of the corresponding budgetary resources by the parliaments in accordance with the Königstein Key. The level of financing within the framework of the budgetary resources made available will be decided by the Standing Conference of the Ministers of Education and Cultural Affairs with the agreement of the Standing Conference of Finance Ministers.

Bonn, 16 December 2004

Law

establishing a foundation

“Foundation for the Accreditation of Study Courses in Germany”

of 15 February 2005

Entered into force: 26 February 2005

The Land Parliament has adopted the following law which is hereby promulgated:

**Law
establishing a foundation
“Foundation for the Accreditation
of Study Courses in Germany”**

Article 1

Name, legal form, headquarters

(1) Under the name “Foundation for the Accreditation of Study Courses in Germany”, a Foundation under public law, having legal capacity, is established with its headquarters in Bonn. The Foundation comes into existence on entry into force of this law.

(2) The Foundation carries an official seal.

Article 2

Purpose of the Foundation

(1) The Foundation serves to fulfil the following tasks:

1. Accreditation and re-accreditation of accreditation agencies (Agencies) by the time-limited granting of the entitlement to accredit study courses through the award of the Foundation’s seal.
2. Compilation of the common and the specific structural guidelines of the Länder into binding guidelines for the Agencies.
3. Regulation of minimum requirements for accreditation procedures including the prerequisites and limits of bundled accreditations.
4. Monitoring of accreditations undertaken by the Agencies.

(2) In addition, the Foundation has the following tasks:

1. It will work to ensure fair competition among the Agencies.
2. Taking account of developments in Europe, it will lay down the prerequisites for the recognition of accreditations by foreign establishments.
3. It will promote international cooperation in the field of accreditation and quality assurance.

4. It will report regularly to the Länder about developments regarding the conversion of the system of study into a tiered study structure and on quality developments in the context of accreditation.

Article 3

Collaboration between the Foundation and the Agencies

(1) The Foundation collaborates with the Agencies on a basis of trust and concludes agreements with them in which the rights and duties of the partners in the accreditation system are set out.

(2) The subject matter of the agreements between the Foundation and the respective Agency includes, in particular:

1. Observation of the structural guidelines as set out in Article 2 Clause 1 No. 2 by the Agency during accreditation,
2. Compliance with the minimum requirements as set out in a Article 2 Clause 1 No. 3,
3. Quality requirements with regard to the internal organisation of the Agency,
4. Reporting obligations of the Agency with regard to the Foundation,
5. The obligation of the Agency to publish the accreditation reports and the names of the assessors involved,
6. Regular information of the Agency by the Accreditation Council,
7. The conditions for the re-accreditation of the Agency,
8. The inclusion of the Agency in the work of the Foundation, for example hearing of the Agency on fundamental questions regarding the organization of the accreditation procedure,
9. The allocation of international tasks between the Foundation and the Agency depending on their respective tasks,
10. The commitment of the Agency to the principle of good faith in dealing with the seal of the Foundation,
11. The conditions under which the Agency revokes the accreditation it has granted to a study course,
12. The consequences of non-fulfilment or inadequate fulfilment of the agreement; measures undertaken on the basis of provisions in the Statutes as set out in Article 5 Clause 2 remain unaffected.

Article 4
Foundation assets, fees

- (1) In order to fulfil the purpose of the Foundation (Article 2), the Foundation will receive an annual subsidy from the Länder as set out in the respective Land budget laws. Such a subsidy is only granted to the extent that the administrative expenditures of the Foundation are not covered by the fees levied in accordance with Clause 4.
- (2) The Foundation is entitled to accept subsidies from third parties.
- (3) Revenues from Foundation assets and other income may only be used to promote the Foundation's purpose.
- (4) In order to cover its administrative expenditures as determined in greater detail in the Statutes, the Foundation may levy fees to fulfil its tasks in accordance with Article 2 Clause 1 No. 1 and 4. The Statutes must, at minimum, set out the circumstances on which the fee is based, the rate of the fee as well as the time when it falls due. Articles 3 to 5, 9 to 22 of the fee regulations of the Land North-Rhine/Westphalia apply accordingly if no other provisions are set out in the Statutes.

Article 5
Statutes

- (1) The Foundation will draw up Statutes for itself which will be adopted by the Foundation Council with a two thirds majority of its members and which requires approval by the Ministry for Science and Research; they will be published in the Ministerial Gazette of the Land of North-Rhine/Westphalia. The same applies to any amendment to the Statutes.
- (2) The Statutes regulate the conditions under which accreditation or re-accreditation may be revoked.

Article 6
Organs of the Foundation

- (1) Organs of the Foundation are
 1. the Accreditation Council,
 2. the Board,
 3. the Foundation Council.
- (2) The organs must observe the gender specific effects in all proposals and decisions (gender mainstreaming).

Article 7
Accreditation Council

- (1) The Accreditation Council makes decisions on all matters of the Foundation. In particular it accredits and re-accredits the Agencies; accreditation and re-accreditation may be granted with conditions or the reservation of revocation, or associated with a particular condition or the reservation of the subsequent imposition and amendment of or supplement to a condition. It takes its decisions by a majority of its members. The ongoing business of the Foundation is

deemed to have been assigned to the Board unless the Accreditation Council has assigned the decision for a particular sphere of business or an individual case to itself.

(2) The Accreditation Council comprises:

1. four representatives from state or state recognised higher education institutions in the Federal Republic of Germany,
2. four representatives from the Länder in the Federal Republic of Germany,
3. five representatives from among professional practitioners, including one representative from the ministries of the Länder responsible for legislation governing service and wages,
4. two students,
5. two foreign representatives with accreditation experience,
6. one representative from the Agencies in a consultative capacity.

The members in accordance with Sentence 1 No. 1 and 4 are nominated by the German Rectors' Conference (*Hochschulrektorenkonferenz – HRK*), the members in accordance with Sentence 1 No. 2 by the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (Standing Conference), the representative from the Land ministries responsible for legislation governing service and wages in accordance with Sentence 1 No. 3 by the Standing Conference in agreement with the Standing Conference of Ministers and Senators of the Interior of the Länder, the other members in accordance with Sentence 1 No. 3 and 5 jointly by the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder and the German Rectors' Conference and the member in accordance with Sentence 1 No.6 by the Agencies. They are subsequently appointed for a period of four years in agreement between the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder and the German Rectors' Conference; the Statutes may provide for a shorter period in office for the students. Renomination and reappointment are permitted, also more than once. If a member departs prematurely, the new member is appointed as quickly as possible until the end of the current period in office; exceptions are regulated by the Statutes. At the end of their term in office, members remain in office until a new member has been appointed; Sentence 4 Half-sentence 2 applies accordingly. Members may be recalled by the Foundation Council for good cause.

(3) The Accreditation Council elects its chairperson and his or her deputy from among its members in accordance with Clause 2 Sentence 1 No. 1 and 2 for a period of four years. The chairperson and deputy chairperson may not belong to the same group in accordance with Clause 2 Sentence 1 No. 1 or 2. Clause 2 Sentence 3 to 5 applies accordingly.

(4) The members of the Accreditation Council work on an honorary basis. They will receive appropriate compensation for their expenses and may receive allowances.

(5) Further details, particularly the basis on which decisions are taken and the inclusion of further consultative members, are regulated by the Statutes.

Article 8 Board

(1) The Board carries out the decisions of the Accreditation Council and manages the ongoing business of the Foundation as set out in Article 7 Clause 1 Sentence 4; in all other respects the powers of the Board are determined by the Statutes. The chairperson of the Board represents the Foundation judicially and extra-judicially and may appoint a representative for individual cases or a sphere of business.

(2) The Board comprises:

1. as chairperson, the chairperson of the Accreditation Council,
2. the deputy chairperson of the Accreditation Council,
3. the chief executive of the Foundation.

(3) Further details are regulated by the Statutes.

Article 9 Foundation Council

(1) The Foundation Council monitors the legality and economic efficiency of the management of Foundation business by the Accreditation Council and the Board.

(2) The Foundation Council comprises:

1. six representatives from the Länder
2. five representatives from the German Rectors' Conference.

The members in accordance with Sentence 1 No. 1 are appointed by the Standing Conference, the members in accordance with Sentence 1 No. 2 by the German Rectors' Conference. They are appointed for a period of four years. Article 7 Clause 2 Sentences 3 to 5 apply accordingly. Votes may be delegated. The members of the Foundation Council may not also be members of the Accreditation Council.

Article 10 Office of the Foundation

(1) The Foundation will maintain an office at its headquarters run by a chief executive. It supports the execution of Foundation business and is subject to instruction from the chairperson of the board.

(2) The chairperson of the Board is the superior of the Foundation employees. The collective agreements and other provisions applying to employees in the Land in which the Foundation is based apply to them.

Article 11
Economic management, accounting

(1) In terms of budget legislation, part VI of the Land financial regulations in the version promulgated on 26 April 1999 (Legislation and Regulations Gazette of North-Rhine/Westphalia, p. 158), last amended by law of 2 July 2002 (Legislation and Regulations Gazette of North-Rhine/Westphalia, p. 284), applies to the Foundation in the absence of any other provision in this law.

(2) Before the start of each calendar year (financial year), the Board must draw up a business plan in good time which will be adopted by the Accreditation Council in agreement with the Foundation Council, based on the approval of the majority of its members in accordance with Article 9 Clause 2 No. 1. The business plan forms the basis for income and expenditure; a summary of the Foundation's posts will be attached as an annex. If the Land draws up a budget for two or more years, a similar procedure will be adopted by the Foundation.

(3) The Board must draw up the year-end financial statements within six months of the end of the financial year and present them to the Accreditation Council and the Foundation Council with the auditor's report, the balance sheet as well as the activity report. Further details are regulated by the Statutes.

(4) The budget and accounting audits of the Foundation are subject to audit by the Land court of auditors.

(5) In all other respects the statutory provisions of the Land on budget, cash and accounting systems and auditing, as well as any administrative regulations adopted in this respect, apply.

Article 12
Supervision

The Foundation is subject to the legal supervision of the Ministry for Science and Research. Article 106 Clause 2 to 4 of the Higher Education Law (HG) applies accordingly.

Article 13
Entry into force, obligation to report

(1) This law enters into force on the day following its promulgation.

(2) The Land Government will report to the Land Parliament as to whether or not this law needs to continue in force by 31 December 2010.

Düsseldorf, 15 February 2005