

EUROPEAN INSTITUTE FOR COMPARATIVE CULTURAL RESEARCH – ERICarts
("Europäisches Institut für vergleichende Kulturforschung gGmbH")

Founding Articles for a Not-For-Profit Company with Limited Liability ("*Gemeinnützige GmbH*"),

§1 Company and Seat

1. The Company is called: European Institute for Comparative Cultural Research - ERICarts gGmbH (*Europäisches Institut für vergleichende Kulturforschung gGmbH*).
2. The seat of the Company is Bonn.

§2 Purpose of the ERICarts-Institute

1. The general purpose of the Company is to promote the arts and culture in Europe. In particular, it aims at increasing transparency in cultural policy, fostering a European and worldwide cultural dialogue and supporting professionalism among those working in the arts and media fields. Activities of the Company will address problems and questions arising from the fields of the arts, culture, cultural and natural heritage, the media and cultural education and training from both an inter-disciplinary and comparative perspective. Among the major concerns of the Company are the cultural implications of European integration, its processes and conflicts, including action taken under article 151.4 of the Treaty of the EU (the "cultural awareness" clause).
2. To achieve the goals set forth in this treaty, the Company will:
 - carry out or support research or publication projects and related events;
 - act as a consultant for institutions in the field of the arts, cultural policy and science as well as to European bodies;
 - publish and document information or research, and
 - regularly monitor developments in the fields of culture and the arts, cultural policy, heritage and the media;
3. The Company may also engage in other activities which support its overall mission. These may include, but are not limited to: the development or implementation of cultural policy programmes; European and worldwide co-operation via exchange of experts; producing scientific and educational material e.g. for the Internet; management or allocation of internships and grants.
4. In order to achieve these goals and to attain a balance between the range of interests inherent in the fields it covers, the Company will pursue its activities as an independent and politically neutral organisation in co-operation with cultural, scientific and political institutions and organisations on international, European, national, regional and local levels.

§ 3 Not-for-profit Status / Transparency

1. The Company pursues, exclusively and directly, activities that are not-for-profit in the sense of the paragraph "issues with tax privileges" of the German tax law (*Abgabenordnung*).
2. The Company works unselfishly and does not primarily follow economic interests.
3. Funds of the Company must only be spent for the purposes set forth in this treaty.
4. Associates may not receive shares of the profits and, in their capacity as Associates, no other allowances from the funds of the Company. If they leave the Company or if the latter is dissolved or loses its tax privileges, they will receive only their paid capital investment and the common value of their material contributions.
5. Nobody may be favoured through expenses which do not meet the purposes of this Treaty or receive inappropriately high remuneration.
6. Yearly reports are to be submitted and cover all activities of the Company and their effects.

§4 Original Capital

1. The original capital investment in the Company of EURO 25,000,- (twenty-five-thousand EURO) is provided by the Founding Associates (*Gesellschafter*), namely:
 - European Association of Cultural Researchers - Scientific Council for ERICarts e.V. with 11.500 Euro
 - Finn-EKVIT Association, Helsinki with 4.500 Euro;
 - Observatorio dos Actividades Culturais (OAC), Lisboa with 4.500 Euro;
 - Zentrum für Kulturforschung Betriebs-GmbH (ZfKf), Bonn/Vienna with 4.500 Euro.
2. The original investment amounting to EURO 25,000.00 has been fully paid.

§ 5 Business Year

1. The business year of the Company is the calendar year.
2. The first business year starts with the founding and ends on the following December 31.

§6 Legal Representation, Management (*Geschäftsführung*)

1. The Company can have one or more Executive Directors (*Geschäftsführer*). If several Executive Directors are appointed, the Company is legally represented by two of them together or by one of them together with another designated Executive (*Prokurist*). If only one Executive Director is appointed, he or she represents the Company alone.
2. The Board of Governors (*Gesellschafterversammlung*) decides upon the sole right of representation by an Executive Director and may grant him or her permission to represent the Company without limitation also regarding legal matters pertaining to the Executive Director, be it in his or her own name or as a representative of third parties.
3. The Executive Director(s) is (are) appointed by the Board of Governors. If more than one Executive Director is appointed, individuals from different countries or European regions must be chosen.

§7 Internal Matters Requiring Approval from the Board of Governors

The following actions of the Executive Director(s) in internal Company matters require the preliminary acceptance through a decision of the Board of Governors:

- setting up or dissolving affiliate branches of the Company as well as acquiring, trading or debiting shares in other companies;
- acquiring, trading or debiting real estate;
- concluding employment or service contracts with executive staff members and stipulating his/her remuneration;
- accepting large-scale projects (§9,8 of this Treaty);
- all other matters upon a decision made by of the Board of Governors.

§8 Transfer of Company Shares

1. The disposal of Company shares or parts thereof, in particular their cession to third parties or their pawning, needs the approval of the majority of the Board of Governors.
2. To secure the European character of the Company, a cession according to §8,1 is not allowed if it would result in two or more Associates coming from one country (nationality or residence) to hold more than 40% of the Company shares. The Board of Governors may divert from this rule with a three quarters majority of the represented shares.
3. A cession according to §8,1 is not allowed during a period of at least one year following their acquisition. The Board of Governors may divert from this rule with a three quarters majority of the represented shares.

4. Shares of Associates who offend against these or other important obligations of this treaty can be recalled by decision of the other Associates. At most the amount originally deposited by the Associate can be compensated as remuneration.

§9 Board of Governors (*Gesellschafterversammlung*)

The Board of Governors decides on the following issues, notwithstanding regulations in §§35-38 and §46 GmbHG:

1. Acceptance of new Associates and the withdrawal of Company shares or the exclusion of Associates for important reasons with a three quarters majority of the represented shares.
2. Election of a President to represent the Board of Governors to serve a 3 year term and a Vice-President who has the power of representation when the President is not available. Only Associates which have originally invested 10% or more of the Company's shares have the right to nominate candidates for this honorary position.
3. The dissolution of the Company and changes to this Treaty.
4. Appointment/dismissal of the Executive Director and stipulation of his/her remuneration as specified in a contract with the Company (§7 for additional staff with executive functions).
5. Establishment of advisory boards as required including their foundation, regulation and dissolution as deemed necessary.
6. Establishment of a Financial Committee (*Verwaltungsrat*, § 11) and appointment/dismissal of its members.
7. In co-operation with a Financial Committee (according to §11.2), the preparation and approval of the medium-term finance plan and the annual balance of accounts.
8. Acceptance of and general guidelines for large-scale projects (volume over 150,000 EURO or duration of more than 24 months), including the appointment of project directors and the establishment of project-related advisory boards.
9. Nomination of Research Fellows as advisors to the Company (§ 11).
10. Membership in associations, networks and bodies pursuing similar goals and objectives.

§10 Decision Making of the Board of Governors

1. A regular meeting of the Board of Governors takes place in the first half of every business year.
2. Meetings of the Board of Governors are called by the Executive Director. A meeting has to be announced to each Associate by registered mail 4 weeks in advance, together with an agenda containing the main issues for decision.
3. The President of the Board of Governors (§9,2) chairs the Meeting.
4. The quorum is achieved if the meeting has been called correctly and if at least half of the original capital is represented. If the quorum is not reached, a new meeting has to be convened immediately which then reaches the quorum notwithstanding the amount of original capital represented, if this procedure has been announced in the invitation (§10,2).
5. Representatives of legally registered organisations or institutions must prove their right of representation with a copy of their court register, the protocol of a Board or Assembly decision or a similar document.
6. Normally, decisions are made in meetings of the Board of Governors. If the law does not stipulate a specific form and all Associates participate, decisions may also be taken outside of meetings in written or telegraphic form, in oral or telephonic communication, per telefax or via electronic mail.
7. There is one vote for each 50 Euro capital share. Decisions of the Board of Governors are taken by a simple majority unless the law or this statute stipulate otherwise. Changes to this Treaty or the dissolution of the Company require a three quarters majority of the represented shares.

8. Decisions have to be recorded immediately in minutes, which are signed by the Executive Director of the Company and by the President of the Board of Governors; all Associates have the right to receive a copy of the minutes.
9. Decisions of the Board of Governors may be contested within one month after they have been recorded. The right to contest ends three months after a decision has been taken. Both of these terms are binding. In addition, rules of the law on joint-stock companies (cf. §§ 241ff. AktG) may apply accordingly.

§11 Financial Committee (*Verwaltungsrat*)

1. A Financial Committee may be created at the discretion of the Board of Governors. Its Members are selected by the Board of Governors with simple majority and may include experts from institutions providing financial support to the Company.
2. The Financial Committee consists of three to five individuals, which are appointed for a period of four years.
3. The role of this Committee is to observe the financial aspects of the Company (including tax issues and other issues of legal relevance) and report to the Board of Governors at least once per year. It should advise the Board of Governors on major investments or large-scale projects over 150,000 EURO.
4. The Financial Committee may also advise the Executive Director on setting up a longer term financial plan for the Company. The Executive Director will provide the Financial Committee with an annual financial statement and make invoices or other business records available to them upon request.
5. Members of the Financial Committee can be recalled before the end of their term, without further explanation, by a three quarters majority of the votes in the Board of Governors. In their turn, members can withdraw from their office in a written statement to the President of the Financial Committee.
6. A President and a Vice-President are elected by the members of the Financial Committee. The Vice-President has the power of representation when the President is not available.
7. Decisions of the Financial Committee are valid if at least three of its members take part in them. Decisions require a simple majority, as long as this contract does not foresee other rules. In case of a tie vote, the voice of the President, respectively the Vice-President, will be decisive.
8. Meetings of the Financial Committee are called in writing by the President, respectively the Vice-President, at least two weeks in advance, with an agenda added. In urgent cases, the President may shorten this term and call the meeting in oral or other forms. Outside of regular sessions, decisions can be made in written, telegraphic or electronic form, if all members participate.
9. A protocol of the decisions of the meeting of the Financial Committee has to be made and is to be signed by its President.
10. In addition to a compensation of expenses, the members of the Financial Committee are entitled to an annual remuneration which is to be decided upon by the Board of Governors and granted at the end of each business year.

§ 12 Research Fellows

1. Research Fellows are individual experts in the scientific fields addressed by the Company and are selected by the Board of Governors. They may be commissioned to participate in individual research projects as appropriate or sit on project advisory boards.
2. Research Fellows have no decision-making powers in the overall management or functioning of the Company, however they may submit project proposals to be considered by the Executive Director and Board of Governors.
3. Research Fellows are not employees of the Company yet may consider taking a sabbatical from their respective jobs to work at the Company for a specified period of time.

4. Research Fellows will be kept informed of major activities of the Company. They should also be informed in advance if the Board of Governors plans to decide on a major change in the mission or is planning a complete dissolution (§15).

§ 13 Recall of Shares

A recall of Company shares is possible at any time with the consent of the Associate concerned. A consent is not needed, if an important reason in connection with the Associate justifies an exclusion.

§14 Annual Financial Report

1. The Annual Financial Report is to be prepared by the Executive Director.
2. It will be prepared in consultation with an eventual Financial Committee and be submitted to the Board of Governors for approval within 6 months after the end of the business year.

§ 15 Change of the Association Contract, Dissolution

1. In case of a dissolution of the Company (§10,7) or if the latter loses its tax privileges, assets which exceed the capital investment paid by the Associates and the common value of their material contributions will be given to the European Association of Cultural Researchers e.V. to be used, exclusively and directly, for activities that are not-for-profit in the sense of the tax laws. If this proves to be impossible, it will be given to another registered organisation with tax privileges to be used for not-for-profit scientific purposes.
2. In case of the dissolution of the ERICarts-Institute, the Executive Director and the Members of the Board of Governors are under the obligation to take all confidential files or those that are subject to data protection into their personal custody or to protect them by other appropriate means against possible misuse.

§ 16 Announcements

Announcements of the Company will be published in the Bundesanzeiger.

§17 Severability Clause

Should any individual provisions in the above Treaty be or become invalid, the validity of the remaining provisions shall not in any way be affected thereby. As far as legally possible, the Associates engage to replace in good faith invalid or unenforceable provisions by substitutes that most nearly effects, both in legal and economic terms, the parties' original intent in entering into this Treaty.

§ 18 Costs of establishment

Costs of the establishment (including fees of the notary and the court as well as other related expenses for legal advice and publishing costs involved with the registration) will be borne by the Company up to an amount of 2,000 Euro.

Bonn, August 12, 2004

(The present version of the Treaty reflects the state of affairs, Spring, 2005)

This Treaty of Association has been decided upon by the members of the Board of Governors representing the Associates,

- Ritva Mitchell (European Association of Cultural Researchers – ECURES)
- Ilkka Heiskanen (Finn-EKVIT)
- Maria de Lourdes Lima dos Santos (Observatorio das Actividades Culturais – OAC)
- Annette Brinkmann (Zentrum für Kulturforschung – ZfKf)

It has been signed for legal submission to the Court of Bonn by

- Andreas Joh. Wiesand (Executive Director)

Taking account of decisions made by the 2003 General Assembly of the initial founding body, the European Association of Cultural Researchers e.V. (formerly: Scientific Council for ERI-Carts), the Board of Governors has also decided the following modus for new Associates wishing to enter the Company, at a later stage:

- Additional "centres of excellence" may join the Company as Associates at any time provided they meet the criteria set forth in the Treaty and are accepted unanimously by the Board of Governors.
- These new Associates may either take over shares from one of the founding Associates (ECURES holds 9.000 Euro in trust for this purpose) or will be allocated new shares by the Board of Governors.
- Once the original capital is fully signed, no Associate should hold more than 20% of the Company shares.
- In addition to cash contributions, future Associates may also provide to the capital with in kind contributions or immaterial goods (e.g. copyrights, neighbouring rights) whose value for the Company is then determined by the Board of Governors, taking into account legal provisions in force at the time of the investment.