

# SPARC Europe revised statutes, 2020

## Name, registered office and definitions

### Article 1

1. The name of the Foundation is: Stichting SPARC Europe.
2. It has its registered office in the Municipality of Utrecht.
3. The incorporation of the Foundation is an initiative of LIBER, SPARC and the Association of Research Libraries. The use of the name SPARC in public activities is in accordance with the licence issued by SPARC.
4. In these articles of association SPARC means the worldwide alliance of research institutions, libraries and other organizations which stimulate competition in the market of scientific communication.
5. In these articles of association LIBER means the association of scientific libraries in Europe.

## Objects

### Article 2

1. The Foundation's objects are promoting change in the process of scientific communication, stimulating competition and supporting new models of publications which serve the international research community better, and everything that is related or conducive to the foregoing, all in the widest sense.
2. The Foundation tries to achieve these objects by inter alia:
  - making academics, librarians, university boards and financiers of research more aware of matters related to the objects;
  - supporting these communities in undertaking positive action for changes in scientific communication;
  - entering into joint ventures with universities, societies and publishers who publish new magazines and provide services promoting new businessmodels.

## Assets

### Article 3

1. The Foundation's assets are formed by contributions from the participating institutions referred to in Article 4, income from capital, moneys from loans, grants, gifts, specific legacies, that which is acquired by testamentary disposition and other income.
2. The contributions referred to in the preceding paragraph are determined by the Board.

## Participating institutions

### Article 4

1. Participating institutions can be legal persons governed by public and private law in Europe, which can make a substantial contribution to the realization of the Foundation's objects and for this purpose have entered into an agreement with the Foundation.
2. A participating institution may join after approval of the Board.

## Board

### Article 5

1. The Board of the Foundation consists of an uneven number to be determined by the Board of at least five and at most eleven members. In the event of one or more Board vacancies, the remaining Board members will constitute a competent Board. Vacancies must be filled as part of the first ordinary election to be held. If the Board decides to reduce the number of Board members, all members serve their term but there will be no elections of new Board members until the correct number of Board members has been reached.
2. One Board member is appointed and dismissed by the SPARC Executive Director. Two Board members are appointed and dismissed by LIBER. The other Board members are elected by the member organizations, with due observance of the following:
  - the Board members to be elected must be representatives of member organizations
  - the Board, over time, should reflect the regional distribution of member organizations;
  - both genders should be evenly represented over time;
3. Ordinary elections are held in the second half of the year, provided there are empty Board seats that need to be filled or the term of elected members concluding at the end of the year. If any Board member needs to leave the Board before the end of their appointed term(s), the remaining Board members present in a Board meeting, even if not quorate, may decide to hold an extraordinary election to fill empty Board seats. SPARC Europe members will be given a deadline of at least four weeks to propose candidates for the Board, and at least a two week deadline for voting.
4. All candidates put forward by member institutions will be made known to the members, who will be given at least two weeks to cast their votes.
5. The candidates with the highest number of votes among the votes cast will be elected as needed to fill the vacant Board seats. In case of a tie between candidates the Chair will draw lots. There is no minimum number of votes that must be cast to constitute a valid election to the Board.
6. Board Members are appointed for a period of three years, except for Board Members who have been appointed by the SPARC and LIBER Executive Directors. No elected Board Member may serve for more than two consecutive three-year terms. A former elected Board member may be re-elected for a non-consecutive term after three or more years off the Board. The board may draw up a rotation schedule.

The board may grant permission to extend the aforementioned term of appointment with a term not exceeding one year for one or more elected board members, if the appointment period ends at the same time for more than half of the elected Board Members or if it is necessary to redress an imbalance in the rotation schedule.

7. Subject to the provisions of paragraph 2, Board membership ends:
  - by resignation;
  - by death;
  - by dismissal by the Board; this resolution may only be adopted unanimously by all other Board members holding office;

Board members are appointed for a period of three years.

8. Board members serve terms starting January 1st in the year following the election, except those elected in extraordinary elections according to the provisions of paragraph 3, who serve until the end of the third year after the election.

9. After each election, the Board will appoint a Chair and a Vice-Chair from their number. The Vice Chair will fill the functions of secretary and treasurer, and will function as Chair if the elected Chair is unable to fulfil the functions of the Chair according to these statutes due to illness, absence or other reasons. In case of a permanent inability to fill the office of Chair or Vice-Chair, the Board may at any time with a three quarters majority elect a new Chair or Vice-Chair. The Chair and/or Vice-Chair will, even if their Board term has expired, function until the Board has elected their successor(s).
10. The Board may invite – for a specific meeting or for a defined period of time – non Board members to speak or participate in Board discussions. Such individuals will not be Board members and will have no voting rights.

## **Article 6**

1. The Board is charged with managing the Foundation, and in this respect engages particularly in strategic management and strategic cooperation.
2. The Board is not authorized to conclude agreements to acquire, alienate and encumber property subject to registration, or to conclude agreements in which the Foundation binds itself as surety or joint and several debtor, warrants performance by a third party or provides security for the debt or a third party or to represent the Foundation with respect to these acts.
3. Testamentary dispositions may only be accepted under the benefit of inventory.
4. The Board is obliged to keep records of the Foundation's financial position and the papers and documents concerning the Foundation's activities in such a way that the Foundation's rights and obligations can be known from them at any time.

## **Representation**

### **Article 7**

1. The Foundation is represented at law and otherwise by either the Board, or the Chair together with the Vice-Chair.
2. The Board may resolve to grant authority to one or more Board members, as well as to third parties, to represent the Foundation within the limits of this authority.

## **Meetings and resolutions**

### **Article 8**

1. Board meetings are held as often as the chair or two other Board members convene a Board meeting, but at least twice a year.
2. Board meetings are convened by the chair or the two other Board members referred to in the preceding paragraph, or on his/her or their behalf by the secretary, in writing, stating the matters to be handled, with due observance of a period of at least seven days. If the meeting is not convened in writing, or if it is convened within a period of seven days, resolutions may nevertheless be adopted provided that all the Board members are present and none of them then opposes this manner of adopting resolutions.
3. Board meetings are held at the venue to be determined by the person convening the meeting.
4. The Board members have access to the meeting as well as those who are admitted by the Board members present at the meeting. A Board member may arrange to be represented at

the meeting by a fellow Board member authorized by him in writing. In these articles 'writing' means any message transmitted via customary communication channels and received in writing. A Board member may not represent more than one fellow Board member at a meeting.

5. Each Board member has one vote. Unless stipulated otherwise in these articles, all resolutions are adopted by an absolute majority of the votes cast. Blank votes are deemed not to have been cast. In the event of a tie, the motion will be rejected.
6. Resolutions may only be adopted at a meeting if at least half of the Board members
  - a. are present, unless these articles stipulate otherwise.
7. All votes are oral. However, the chair may decide that voting is by ballot. If it concerns an election of persons, a person attending the meeting who is entitled to vote may require voting to be by ballot. Written votes are cast by means of unsigned ballot papers.
8. Meetings are led by the chair; in his or her absence the meeting itself will provide for the chairpersonship.
9. Minutes must be kept of the proceedings at each meeting by a person appointed by the chair of the meeting for that purpose. These minutes must be adopted at the same or the next meeting.
10. The Board may also adopt resolutions without holding a meeting, provided that all the Board members are given the opportunity to cast their vote, and they have all declared in writing or by electronic data carrier that they do not oppose this manner of adopting resolutions. A resolution will be adopted as soon as the required majority of all the Board members have expressed themselves in favour of the motion. The secretary will make a record of a resolution adopted without holding a meeting, which must be adopted at the next meeting. The record thus adopted will be added to the minutes together with the documents referred to in the first sentence of this paragraph.
11. All disputes concerning voting not provided for in these articles will be decided by the chair.

## Management

### Article 9

1. The Board will appoint a managing director who will be charged with matters including the following:
  - a. drawing up policy plans and budgets;
  - b. their implementation following approval by the Board.
2. When making the appointment the Board will determine the authority of a managing director as well as his or her employment conditions.
3. The managing director can be dismissed by the Board.
4. The Chair, assisted by one or more Board member(s) of the Chair's choosing, will periodically evaluate the performance of the Director measured against key goals for SPARC Europe's work. The evaluation will be communicated to the Director for comments before it is made available to the rest of the Board.

## Council of participating institutions

### Article 10

1. General meetings of participants are held as often as the Board considers this

desirable or this is necessary pursuant to the articles.

2. The Board is also obliged to convene a meeting of participants within two months of a written request by at least such a number of participants as are authorized to cast one-tenth of the votes. If no action is taken on the request within fourteen days, those requesting the meeting can convene it in accordance with the following article.

## Manner of convening meetings and access

### Article 11

1. General meetings of participants are convened by the Board. Meetings must be convened by sending notices to the addresses of the members as contained in the register of participants. Meetings must be convened at least fourteen days in advance, not counting the day of the convocation and that of the meeting.
2. The notices convening the meeting must state the matters to be handled at the meeting.
3. General meetings of participants may be attended by all the participants and officers of the Foundation. The General Meeting of participants will decide on the admission of persons other than the aforementioned persons.

## Voting rights and manner of adopting resolutions

### Article 12

1. All participants have the right to vote at meetings. Each affiliated party can cast one vote. Each affiliated party is entitled to have its vote cast by another affiliated party authorized for that purpose in writing.
2. Resolutions are adopted by absolute majority of the votes validly cast, unless these articles determine otherwise. Blank votes are considered as not having been cast.
3. If there is a tie in the voting on a motion other than the appointment of persons, the motion will be rejected.
4. Voting on persons is by ballot, unless the meeting resolves to vote by acclamation. If no one obtains an absolute majority in an appointment of persons, a second vote will be held (between the nominated candidates). If again no one obtains an absolute majority, revotes will be held, until either one person has obtained an absolute majority, or the vote was between two persons and there is a tie in the voting. In the aforementioned revotes (not including the second vote), voting will each time be between the persons who were voted on in the preceding vote, with the exception, however, of the person for whom the smallest number of votes were cast in that preceding vote. If in the preceding vote the smallest number of votes were cast for more than one person, it will be decided by lot which of these persons may not be voted for in the fresh vote. If there is a tie in the voting between two persons, which of the two has been elected will be decided by drawing lots.
5. A resolution of all participants, even if not in a meeting, provided it has been adopted with the prior knowledge of the Board, will have the same force as a resolution of the general meeting of participants. For this manner of adopting resolutions to be valid all participants must have expressed their decision in writing. Resolutions can be adopted by e-mail.
6. The judgement of the chair, pronounced at the meeting, that a resolution has been adopted by the meeting will be decisive. The same applies to the contents of a resolution that has been adopted, in as far as voting was on a motion which had not been recorded in writing.

7. If, however, immediately following the pronouncement of this judgement its correctness is disputed, a second vote will be held if a majority of those present at the meeting or, if the original vote was not a vote by roll call or by ballot, a person entitled to vote requests this. The legal consequences of the original vote will lapse as a result of this new vote.

## Financial year and annual report and accounts

### Article 13

1. The Foundation's financial year coincides with the calendar year.
2. Each year the managing director will draw up a policy plan and the budget of the Foundation's expected income and expenditure during the next calendar year. These will be submitted to the Board for approval not later than September.
3. The Foundation's books are balanced as at the end of each financial year. From them the treasurer will draw up a balance sheet and a statement of income and expenditure for the past financial year, which will be submitted to the Board within six months of the end of the financial year.
4. The annual report and accounts will be adopted by the Board.
5. Before adopting the documents referred to in paragraph 3, the Board will have them audited by an auditor to be appointed by the Board. This auditor will report his or her findings.
6. The annual report and accounts will be communicated to the participating institutions.
7. The Board is obliged to keep the documents referred to in the preceding paragraphs for a period of seven years.

## Amendments to the articles

### Article 14

1. The Board is authorized to amend the articles and to adopt resolutions to merge or to split.
2. A resolution of the Board to amend the articles may only be adopted following the approval of three-quarters of the SPARC Europe Board members, including approval by the Board members appointed by SPARC and LIBER.
3. An extract of the motion containing the verbatim text of the proposed amendment must be communicated to the participating institutions four (4) weeks ahead of the Board meeting. Participating institutions are invited to comment on the proposed amendment. Comments will be published on the SPARC Europe web-site.
4. The amendment to the articles requires the approval of LIBER, Association of European Research Libraries and of SPARC.
5. A resolution to amend the articles will only take effect after a notarial deed has been drawn up of such a resolution. Any Board member will be authorized to have this deed executed.

## Standing orders

### Article 15

1. The Board is authorized to adopt standing orders providing for those matters not contained in these articles.
2. The standing orders may not be in conflict with the law or these articles.
3. The Board is authorized to amend or revoke the standing orders at any time.

## Dissolution and winding-up

### Article 16

1. The Board is authorized to dissolve the Foundation.
2. The provisions of paragraph 2 of Article 14 apply by analogy to the resolution to dissolve.
3. The Foundation will continue to exist after its dissolution in so far as this is required for the settlement of its assets.
4. Any credit balance left after liquidation is transferred to a public benefit organization having a similar objective as the foundation or a foreign organization exclusively or all but exclusively serving the public benefit having a similar objective to the Foundation.
5. Following dissolution of the Foundation, its assets will be liquidated by the officers.
6. During the winding-up, the provisions of these articles will remain in force as far as possible.
7. After the winding-up, the books and records of the dissolved Foundation will remain in the custody of a person appointed by the liquidators for the period prescribed by law.
8. In other respects, the winding-up will be subject to the provisions of Title 1, Book 2 of the Netherlands Civil Code.

## Concluding provision

### Article 17

All cases not provided for by the law or these articles will be decided by the Board.

## Transitional provision

### Article 18

Notwithstanding the provisions of Article 5, the first officers are appointed by this deed.