

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 5 May 2018

CDCPP(2018)6
Item 5.1 on the agenda

**STEERING COMMITTEE
FOR CULTURE, HERITAGE AND LANDSCAPE
(CDCPP)**

EUROPEAN LANDSCAPE CONVENTION

**Draft Recommendation contributing
to the implementation
of the European Landscape Convention:
creation of public funds for landscape**

and

*Exploratory Report on
experiences of public landscape funds*

For information and action

*Secretariat Memorandum prepared by the
Landscape and European Heritage Days Division
Directorate of Democratic Citizenship and Participation
Directorate General of Democracy, Council of Europe*

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Summary

The European Landscape Convention and the Recommendation CM/Rec(2008)3 of the Committee of Ministers to member States on the guidelines for the implementation of the European Landscape Convention state:

European Landscape Convention

“E. Implementation

To put landscape policies into effect, each Party undertakes to introduce instruments aimed at protecting, managing and/or planning the landscape”. (Article 6 – *Specific measures*)

Recommendation CM/Rec(2008)3 of the Committee of Ministers to member States on the guidelines for the implementation of the European Landscape Convention

“... II.3. Methods of implementation

... The means of implementing landscape policies or introducing the landscape dimension into sectoral policies may be either regulatory or voluntary. New methods of implementation could also be used. The choice of method can depend on the local situation, which will vary even within the same country.

Implementation of landscape policies or of policies to introduce the landscape dimension into sectoral policies may combine these different means according to the ends in view, the specific characteristics of the territory, the population and administrative organisation concerned, and so on. This applies to all landscape situations and all activities that shape them. Implementation may be included in general and sectoral instruments at the different administrative, programming and spatial-planning levels; it may provide for land acquisition by the competent authorities.

II.3.1. Regulatory implementation

...

II.3.2. Voluntary implementation

...

II.3.3. Instruments for landscape policies

To implement landscape policies, a general planning and development process should be introduced: this should use specific instruments and provide for the landscape dimension to be included in sectoral instruments. It should be based both on general principles at national level, even if decentralisation is anticipated, and on the linkage of competences at several levels and several types of implementation instruments.

Instruments are already being put to use in several countries and each can be a model for either the creation of new instruments or the improvement of existing ones.

The main categories of instruments are:

- landscape planning: landscape study plans included in spatial planning;*
- inclusion of the landscape in sectoral policies and instruments;*
- shared charters, contracts, strategic plans;*
- impact and landscape studies;*
- evaluations of the effects of operations on landscape not subject to an impact study;*
- protected sites and landscapes;*
- relationship between landscape and regulations concerning the cultural and historic heritage;*
- resources and financing;*
- landscape awards;*
- landscape observatories, centres and institutes;*
- reports on the state of the landscape and landscape policies;*
- transfrontier landscapes.*

...
**Examples of instruments used to implement
 the European Landscape Convention**

... 8. Resources and financing

The resources needed to draw up and implement a landscape policy may be both financial and human. Specific resources can be earmarked, with a landscape fund being set up at different administrative levels, through public and private financing (bodies, associations, foundations, etc.). The inclusion of landscape aspects in sectoral policies (environment, tourism, agriculture, public works, culture, etc.) will allow use to be made of the resources earmarked for these sectors simultaneously for landscape protection, management and planning.

In order to encourage the landscape dimension to be taken into account in all public and private decisions, special measures involving tax rebates and grants may be adopted. These measures should be adapted to the different types of landscape, their constituent elements and implementation instruments and to the needs of the local communities concerned (direct incentives).

Other types of incentive may be added, for example technical assistance in drawing up private plans and projects, exploitation of the sites concerned through tourism policies, support for high-quality agricultural products, etc. (indirect incentives).

Specific initiatives can be taken to encourage the involvement of associations (non-governmental organisations) in the definition and implementation of landscape policies at the different administrative levels in connection with the various types of implementation instruments (plans, charters, etc.) and the different operational phases (protection, management and planning, etc.).

Major public works, projects and public infrastructures should devote a minimum percentage of their budget to landscape dimensions. This course is already being followed in certain states..."

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The 9th Council of Europe Conference on the European Landscape Convention:

- *took note of the Report on “Public landscape funding” prepared by the Secretariat of the Council of Europe at the request of the Conference, deciding to change its title: “Experiences of Public Landscape Funds”, in a revised version [Cf. Document CEP-CDCPP (2017) 10E rev.];*
- *took note that States also provide funding through various instruments (agriculture, protected areas, urban areas...);*
- *asked the Secretariat to prepare guidelines on “Public Landscape Funds” in order to assist Parties to the Convention wishing to set up such a fund.*

The draft Recommendation contributing to the implementation of the European Landscape Convention: creation of public funds for landscape (the text of which is set out below) was addressed by the Secretariat on 20 April 2018 to the National Representatives for the implementation of the European Landscape Convention and to the Members of the Steering Committee for Culture, Heritage and Landscape (CDCPP), for possible amendments. The Secretariat received six responses – from Croatia, France, Latvia, Norway, Portugal and Switzerland. The national representatives indicated that they approved the draft recommendation or had no comment to make.

The Committee is invited to:

- examine the draft Recommendation contributing to the implementation of the European Landscape Convention: creation of public funds for landscape, with a view to submission to the Committee of Ministers. It is based on the exploratory document, as it appears in the appendix.

**Draft Recommendation
contributing to the implementation
of the European Landscape Convention
of the Council of Europe:
creation of public funds for landscape**

*(adopted by the Committee of Ministers on 2018,
at the ... meeting of the Ministers' Deputies)*

The Committee of Ministers,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Having regard to the European Landscape Convention (ETS No. 176), which states that “the landscape is an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognised as being of outstanding beauty as well as everyday areas”;

Recalling the provisions of its preamble, according to which “the landscape has an important public interest role in the cultural, ecological, environmental and social fields and constitutes a resource favourable to economic activity and whose protection, management and planning can contribute to job creation”;

Considering that Article 6 E. of the Convention relating to specific measures to put landscape policies into effect states that “each Party undertakes to introduce instruments aimed at protecting, managing and/or planning the landscape.”

Referring to the provisions of Recommendation CM/Rec(2008)3 of the Committee of Ministers to member States on the guidelines for the implementation of the European Landscape Convention concerning means of intervention and instruments used (resources and financing) to implement the Convention;

Noting the importance of introducing instruments that may contribute to protecting, managing or planning the landscape;

Noting that national and/or regional public landscape funds (hereinafter “the funds”) are instruments making it possible to provide consultancy, technical assistance and funding for projects aimed at improving landscape quality;

Wishing to encourage the setting up of such funds along the lines of the experiences presented in the Exploratory Report on experiences of public landscape funds (Appendix),

Recommends that the States Parties to the European Landscape Convention:

- a. create legally regulated funds, whether national or regional, assigning them public law body status;
- b. encourage support from and participation of different ministries or departments in the creation and supervision of those funds;
- c. finance these funds through public or private funding or any other source (taxes on tourism or other activities; levies linked to public works...);

- d. provide, through these funds, direct incentives (full or partial financing) or indirect incentives (consultancy and technical assistance) for the implementation and supervision of projects aimed at protecting, managing or planning landscape, to improve the quality of life;
- e. encourage the formation of partnerships in the implementation of projects favouring landscapes of quality;
- f. raise the awareness of the public, local and regional authorities and other players, via the media, about the challenges of the projects supported by these funds.

Appendix



EUROPEAN LANDSCAPE CONVENTION

EXPLORATORY REPORT ON EXPERIENCES OF PUBLIC LANDSCAPE FUNDS

Document of the Secretariat General of the Council of Europe

Summary

The member States of the Council of Europe signatories of the Convention note that “the landscape has an important public interest role in the cultural, ecological, environmental and social fields, and constitutes a resource favourable to economic activity and whose protection, management and planning can contribute to job creation...” (Preamble).

Each Party to the Convention undertakes “to recognise landscapes in law as an essential component of people’s surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity...” (Article 5, *a.*).

The funding of initiatives to promote the landscape helps promote sustainable development, as consideration is given simultaneously to its environmental, social, cultural and economic dimensions.

This exploratory report presents some experiences of public funds created by member States (Austria, France, Ireland, Latvia, Poland, Switzerland and the United Kingdom), and non-members of the Council of Europe (Canada and the United States) in favour of the landscape, with the natural and cultural elements that compose it.

The information presented is not exhaustive, but is intended to highlight the elements likely to allow the creation of national funds for the landscape.

Report prepared with the valued collaboration of Mr Enrico Buergi, Former President of the Projects Commission of the Swiss Landscape Fund, Honorary President of the Council of Europe Conference on the European Landscape Convention, by the Secretariat of the European Landscape Convention, Council of Europe – Mrs Maguelonne Déjeant-Pons, Mr Valentin Riehm and Mr Barry Hynes.

AUSTRIA

Landscape development funds (*Landschaftsentwicklungsfonds*)

In Austria, public funding projects for the landscape have been initiated at provincial level. The Landscape Funds set up by the provinces of Niederösterreich and Oberösterreich are described below.

The authorities in the province of Niederösterreich set up a landscape fund in 1993. The bulk of its funding comes from a “landscape contribution”, which is a tax levied on the extraction of above-ground mineral resources, and redistributed through the Fund to projects that meet the main aims of landscape conservation and planning.

Source: www.noe.gv.at/noe/Landwirtschaft/Landschaftsfonds.html

The authorities in the province of Oberösterreich have also set up a landscape development fund to protect and manage current and potential areas of outstanding ecological value. The fund comes under the remit of the province’s local government departments that are responsible for the protection of nature, agriculture, forestry, surface water management and road maintenance. This sharing of responsibility helps boost the long-term effectiveness of the fund throughout the province.

The purpose of the fund is to support projects that protect biotopes and improve waterway structures, and to create buffer zones between areas of outstanding ecological value and high-use environments.

Finance granted by this fund supplements other financial aid programmes and provides support to projects which would otherwise be underfunded and consequently not implemented. The fund’s income comes directly from the Oberösterreich province budget for the acquisition, protection and management of endangered areas. It also supplies technical assistance to farming communities, local and regional authorities, non-governmental organisations, environmental protection associations and private individuals.

Source: www.land-oberoesterreich.gv.at/landschaftsfonds.htm

FRANCE

Introductory remarks

In France, there is no “fund” dedicated to landscape policy in the sense that is given, for example, to this term in Switzerland. However, the State’s annual budget includes appropriations intended to meet two major objectives: on the one hand to guarantee the quality and diversity of landscapes at national level and, on the other, to make landscape a tool of service to the territories with a preferential approach to spatial planning. In 2016, the draft finance law included an amount of 3.34 million euros for this purpose.

Thus encouraged, the landscape policy, directly inspired by the European Landscape Convention, is based on several structuring mechanisms, allowing:

- the development of a shared knowledge of landscapes and an analysis of their transformation through the development or updating (jointly by the State and local authorities) of Landscape Atlases, as well as through the establishment of Landscape Photographic Observatories;
- to capture the foreseen evolution of the landscapes of a given territory and to orient the development in consultation with the inhabitants to fulfil a requirement for the quality of the living environment. This is achieved through methodological and financial support to local and regional authorities, for the implementation of landscape plans;

- active support to the sector's structuring associations, working for the preservation, development and enhancement of landscapes;
- skills development at national level, through the support of landscape schools.

It is also important to mention the existence of funds committed by local and regional authorities in favour of the landscape, for which, however, there are no information elements available at national level.

Endowment funds

Endowment funds are financial instruments under private law introduced in France in 2008, as a bridge between the work of associations and foundations. They have the status of legal entity not entitled to receive public funds. Their purpose is to act in the public interest. These endowment funds can be likened to state-approved associations or foundations but they have more flexibility in the way they are set up and operate.

Endowment funds are headed by a board of directors, one of whom holds the chair.

There are two kinds of endowment fund:

- funds which can use their capital to finance more widespread public interest activities, and
- funds which can finance activities solely out of the income derived from their capital.

Endowment funds are supported by patrons who may be private individuals or corporate entities. Accordingly, private individuals, associations, non-governmental organisations and businesses can contribute to their funding. On the other hand, no public grants or contributions are allowed, except where this is explicitly authorised by the ministers in charge of the economy and the budget. Notably, this procedure was adopted in 2008 to create the Louvre Museum Fund. This provision guarantees the independence of endowment funds.

Endowment funds can have operator, distributor or mixed status. In this way, they can commission projects they financially support or fund other organisations which implement the projects themselves. It is also possible for a fund to have a combined status.

To this end, funds may offer special facilities such as tax deductions. This tax relief for donors amounts to 75% for donations up to €50,000 and 66% for donations exceeding €50,000.

French Fund for the Global Environment (FFEM) *Fonds français pour l'environnement mondial*

The French Fund for the Global Environment (FFEM) operates in a very similar way to the Swiss Landscape Fund except for some minor differences. The Fund finances projects that are mainly carried out on the African continent and in other developing countries. It is a development aid instrument in a globalised context.

The Fund comprises three bodies: a decision-making body, a consultative body and an operational body.

The decision-making body: The Steering Committee operates like a board of directors, and its Chair is appointed by the Minister responsible for environmental matters. The Chair, in turn, appoints a Vice-Chair and the members of the Secretariat. The Committee deliberates at several meetings held during the year on: the general policy of the Fund, in particular the areas in which it takes action; assessment reports, and the Secretariat's budget. The Steering Committee appoints the members of the Scientific and Technical Committee.

The consultative body: the Scientific and Technical Committee issues opinions on projects and considers eligibility criteria. It is made up of leading figures recognised for their expertise in environmental and social issues. The Scientific and Technical Committee provides input to the project examination process and issues observations at the commitment stage. It also takes part in initiatives to raise the awareness of French and international partners on environmental challenges.

The operational body: the Secretariat manages the setting-up and monitoring of projects. It is attached to the Strategy Directorate of the French Development Agency (AFD). It shares the latter's administrative, accounting and financial facilities and its network of local agencies. It consists of a secretary general, a communications officer, an accounting and budgetary matters officer, three management executives and various environment, biodiversity and climate change specialists.

Source: www.ffem.fr/accueil-FFEM/ffem/faq

The Heritage Foundation (*Fondation du patrimoine*)

The French Ministry of Culture, by virtue of the Law of 2 July 1996, set up the *Fondation du patrimoine* (Heritage Foundation).¹ Its purpose is to drive an active policy of energising the private sector to promote heritage. The Foundation gained state approval as a public interest body under a decree issued on 18 April 1997.

The participation of private entities in the setting up of a public fund for heritage enhances its financial capacity, given the current economic situation where public funds are very scarce.

The Foundation's mission is: to raise public awareness of the need for a concerted effort to promote the national heritage; to identify the various sites under threat; to attract and organise partnerships with associations working for heritage conservation, the public authorities (both national and local), and businesses wishing to get involved in sponsorship, and to take part in the implementation of restoration programmes.

Sponsorship entitles private donors to tax advantages and enables the beneficiaries to carry out their projects. Sponsorship takes the form of donations without any financial compensation. This ensures that beneficiaries are completely independent of donors.

IRELAND

Heritage Council (HC)

The Heritage Council is a public body set up under the 1995 Heritage Act which took over from the National Heritage Council - NHC, set up in 1988. It is an independent entity, subsidised by the public authorities and the National Lottery, with a chair appointed by the Department of Arts, Culture and the Gaeltacht.

The Heritage Council's mission is to promote access to information, to foster technical assistance, to co-ordinate research, and to promote links between activities undertaken by the public authorities and associations, and to support legislation.

The Heritage Council has put in place a network of heritage officers throughout most Irish counties. This brings it closer to local communities and projects. The officers assist communities by offering professional advice and holding debates.

1. See Appendix to this report (1).

In partnership with national agencies, local government and associations, the Heritage Council's purpose is to manage, protect and promote the national heritage, in particular at local level. It helps engage, educate and generate renewed interest in heritage.

The Heritage Council's vision for the landscape is one of "a dynamic, living landscape, one which accommodates the physical and spiritual needs of people with the needs of nature in a harmonious manner, and, as a result, brings long-term benefits to both".

The Heritage Council emphasises the substantial impact that the protection of heritage and landscape can have on economic and social well-being. There is a particular focus on the leisure and tourism sectors.

Source: www.heritagecouncil.ie/home

LATVIA

The Latvian Environmental Investment Fund (LEIF)

The Latvian Environmental Investment Fund was set up on 28 April 1997. It has a specific legal status in that it is registered as a limited liability company. The Ministry for Environmental Protection and Regional Development holds 100% of the company's shares.

The purpose of the Fund is to reduce environmental pollution by promoting the implementation of environmental protection projects, and by supporting municipalities and commercial organisations in implementing projects.

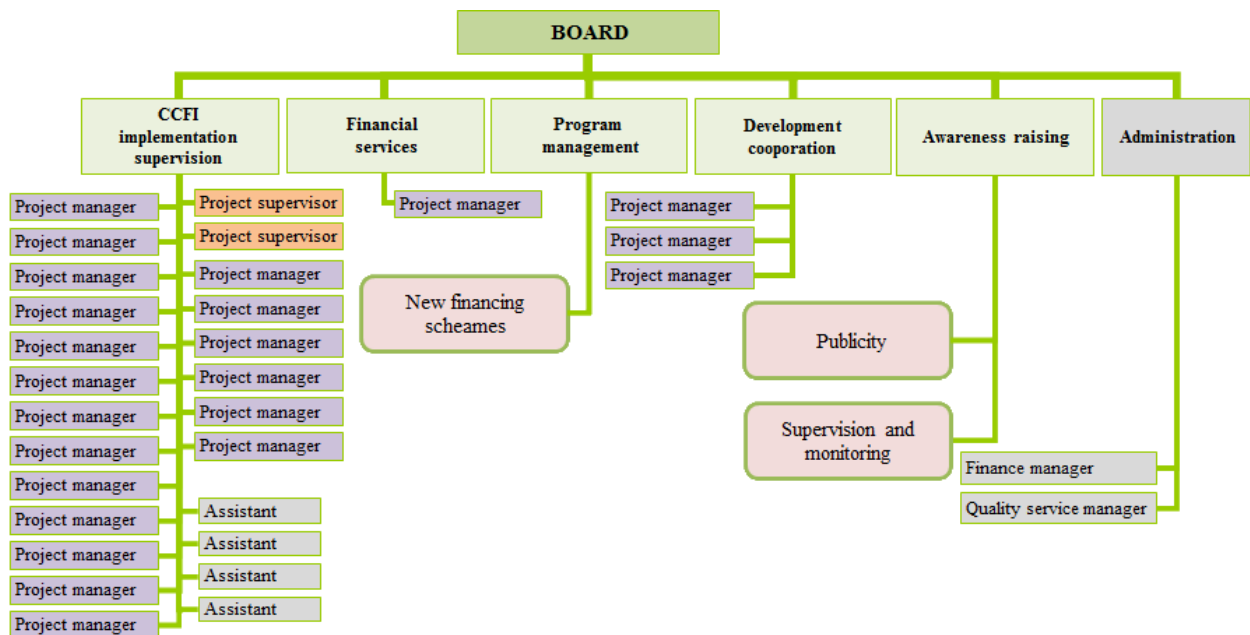
The Fund works to foster projects from drawing board to implementation. In so doing, it attracts funding from public and private players as well as from the Climate Change Finance Instrument (CCFI). It works in close co-operation with local and regional authorities for the development and management of projects, as well as with public services, non-governmental organisations, research centres and the private sector.

Such funding makes it possible to conduct cross-border projects and contributes, on top of project development and management, to organising training, outreach events and project communications.

The Fund's management team complies with national rules and requirements.

The Board, which consists of two senior figures, is responsible for assessing the relevance of the projects submitted to it and their conformity with the purposes and policies of the Fund. It is responsible for granting loans to selected projects.

The way the Fund is organised is outlined below.



Source: www.lvif.gov.lv/?object_id=460

POLAND

National Fund for Environmental Protection and Water Management (NFEPWM)

The National Fund for Environmental Protection and Water Management was set up in 1989 by the Polish government in co-operation with the regional authorities (*voivodeships*) funds for environmental protection. Since 2001, in pursuance of the law on the protection of the environment, the Fund has had legal identity.

The purpose of the Fund is to devise a range of financial instruments intended to meet the needs of beneficiaries. Furthermore, it provides legislative, financial and technical assistance on environmental matters. The main beneficiaries are local and regional authorities, businesses, public and non-governmental organisations.

The Fund has become the executing authority for projects financed from both national and foreign funds. The national funds mainly derive from fines and various environmental taxes. These are taxes levied on the energy sector and on over-polluting vehicles taken out of circulation. In this way, the Fund applies the polluter-pays principle. Foreign funds come from the European Union or from co-operative funds in the form of European Economic Area Grants (funded jointly by Iceland, Norway and Liechtenstein) and Norway Grants.

Source: www.nfosigw.gov.pl/en/nfepwm

SWITZERLAND

The Swiss Landscape Fund (FSP)

The Swiss Landscape Fund (*Fonds suisse pour le paysage* - FSP) was established by the Swiss Federal Assembly on the occasion of the 700th anniversary of the Confederation, by means of the federal decree of 3 May 1991.² The latter awards financial aid for the protection and management of traditional rural landscapes. The Fund, endowed with CHF 50 million, was initially set up for a ten-year period. It provides a financial support instrument for the protection and management of landscape projects which receive insufficient public aid to cover the integral costs of realisation.

The FSP, having proved itself, was twice extended, following new parliamentary initiatives, for further periods of 10 years in 2001 and 2011, and the Swiss government replenished it for each new period to the tune of CHF 50 million.

The total amount granted to the FSP, i.e. CHF 150 million over the 1991 to 2021 period, roughly equals €125 million. This funding has generated economic investment in the beneficiary regions, to a value of at least three times the total amount allocated, namely CHF 450 million.

From 1991 to 2016, the FSP provided financial support for a total of 2,000 projects. Most of these projects no longer require financial assistance for their day-to-day management, and are now independent of any financial assistance from the public sector.

The beneficiaries of the financial assistance from the Fund are public law associations and entities, private individuals, and also regions and Cantons wishing to take action for the future of their landscape.

The FSP provided funding to enhance the landscapes of everyday life in the traditional rural areas. It promotes the sustainable management of landscapes and territories with a view to a better quality of life through the recovery of degraded rural areas and the resumption of the use of agricultural land for the production of local products. The FSP also acts to maintain, and indeed improve, biodiversity in rural landscapes.

The FSP helps upgrade these spaces, highlighting the multi-functional role that these areas can have for the local population and nature.

The FSP's strength lies in its unique characteristics enabling it to support a large number of projects which would not otherwise have been viable. For example, it can even grant incentive loans, i.e. seed money, which project leaders can use to raise the additional finance needed to implement a project.

The FSP can therefore enable major financial gaps to be bridged, as it can provide for essential costs not covered by other funding. It can also support projects which do not qualify for public funding because, for example, they are too small.

The FSP attaches particular importance to projects likely to have a broad regional impact. To this end, part of the financial aid granted is earmarked for communications, particularly in the local media of the region concerned.

The FSP is an independent body of the federal administration, whose contributions come mainly from the public authorities, namely the Swiss Confederation.

2. See Appendix to this report (2).

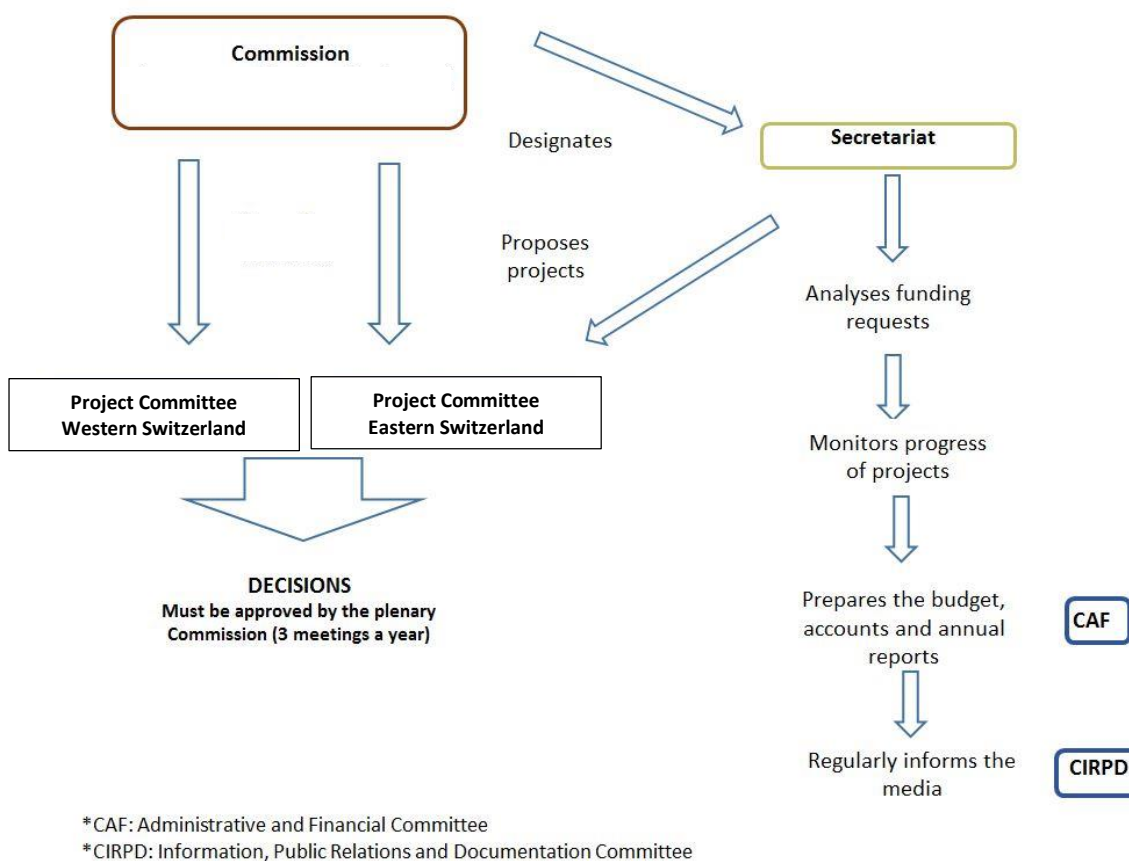
In summary, the financial aids to the projects take the form of:

- incentive loans (financing of activities for raising the funds essential to the implementation of the project);
- irrecoverable gifted funds;
- interest-free loans.

Administrative operation of the FSP

The FSP is an independent body which is not subordinate to any ministry. Nonetheless, the Federal Council exercises financial oversight of it, through the Federal Administration of Finance. The chair of the FSP's Commission and the other members (13 persons in total) are appointed by the Federal Council.

The organisational chart below illustrates the operation of the FSP and the links between its various bodies.



The FSP has rules of procedure, which require the approval of the Federal Department for the Environment, Transport, Energy and Communications (DETEC).

The final decision on grants is made by the Commission, on which the Confederation, the Cantons, the nature, landscape and heritage protection organisations and specialists in landscape management (landscapers, agronomists, biologists and other professionals) are represented.

The Fund's Information, Public Relations and Documentation Committee (CIRPD) is the body responsible for communications and awareness-raising.

The members of the Commission and the Secretariat play an important role in the renewal of the FSP and provide information on its work.

Steps in applying for funding

Obtaining funding from the FSP requires submission for review:

- a descriptive report of the project’s objectives, with an estimate for its implementation;
- indication of the project managers;
- the sources of project’s finance (the fund providing only additional aid);
- the indication of public grants, if they exist;
- an explicit application, addressed to the FSP, specifying the amount of financial contribution sought.

Further information: www.flis-fsp.ch/francais.php

UNITED KINGDOM

National Heritage Memorial Fund (NHMF) and Heritage Lottery Fund (HLF)

The National Heritage Act was passed in 1980.³ This act instituted an independent Board of Trustees, to be paid an annual grant, giving rise to the National Heritage Memorial Fund (NHMF).

From 1994, the NHMF and its trustees were tasked with distributing the heritage share of national lottery money, a task it currently performs through the Heritage Lottery Fund.

The NHMF is an independent public organisation which is accountable to parliament through the Department for Culture, Media and Sport, which issues financial and policy instructions to the Fund. Decisions on individual applications are entirely independent of the government.

The NHMF continues to act as the fund of last resort, being able to respond very quickly and raise finance at short notice. In contrast, the Heritage Lottery Fund provides heritage conservation opportunities that are more focused on improving access to heritage, as well as raising the awareness and seeking the commitment of the public.

From 2003 to 2016, the Heritage Lottery Fund invested €158 million in 77 partnership projects conducted throughout the United Kingdom.

These partnership projects place heritage protection at the heart of rural and peri-urban revitalisation. They bring together national, regional and local organisations in an effort to make long-term improvements to the landscape and to the local communities that inhabit it. They help conserve the various habitats in the landscape as well as fostering landscape management skills.

The HLF supports a great variety of projects in the fields of culture, heritage and landscape. It supports projects related to both the local and national heritage, be they natural or cultural. The HLF, moreover, provides information and guidance on protection and activity plans, and fosters local community involvement in development projects.

Grants from the HLF can range from £3,000 (€3 400) to £10,000 (€11 400) in the form of initial grants. It also awards higher grants ranging from £100,000 (€114 000) to £5,000,000 (€5 702 000), to historic parks or private partnership projects relating, for instance, to the restoration of historic monuments.

3. See Appendix to this report (3).

When deliberating on the selection of applications, the members of the HLF selection committee seek to establish that the project is directly linked to heritage protection and/or restoration. The impacts of projects as well as the ability of those in charge to deliver them also come under consideration.

It is worth taking a closer look at the way the HLF handles applications for funding in the £100,000 (€114 000) to £2 million (€2.28 million) bracket. The Board of Trustees, responsible for the fund's development strategy and activity plans, devolves its selection powers to the regional committees. There are 12 such committees in the United Kingdom, made up of local figures elected for a renewable three-year term. The latter make a selection of the projects that are most relevant in local terms.

The 15 members of the Lottery Fund's Landscape Board, for their part, are appointed by the Prime Minister, on a recommendation from the Secretary of State for Culture, Media and Sport. The NHMF and the HLF share the same Board of Trustees.

Source: www.hlf.org.uk/about-us/who-we-are/committees

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Below are some examples of public funds set up by non-member states of the Council of Europe.

CANADA

Canada has several special purpose funds to cater for environmental issues. The following are two examples:

Environmental Damages Fund (EDF)

The Environmental Damages Fund was set up in 1995. It is administered by the Canadian government through its *Environment Canada* programme in order to manage the funds derived from compensation for damage inflicted on the environment. They come from court orders, out-of-court settlements or voluntary payments. The Fund mainly supports projects for the protection of natural and environmental resources, as well as wildlife conservation, in the geographical areas where the damage has been recorded. It also helps raise public awareness on the effects of pollution and provides funding for research on various environmental issues.

The Fund serves local and provincial governments, aboriginal communities, university environmental groups and non-governmental organisations. Although it is a national fund, allocation takes place at regional level, which restricts the financial resources available to individual regions.

Source: www.ec.gc.ca/edf-fde/default.asp?lang=En&n=BD1220D8-1

National Wetland Conservation Fund (NWCF)

The National Wetland Conservation Fund was set up to restore and enhance degraded wetlands. It helps improve public understanding of wetlands and the animal species that live there.

The Fund exists to serve aboriginal organisations, local communities, non-governmental organisations, private individuals, provincial state-owned companies and private companies. In order to meet geographical criteria, the projects must be located on private land, public provincial land or aboriginal lands. Grants range from \$50,000 (€40 000) to \$250,000 (€202 000), with a ceiling of \$500,000 (€406 000) per annum and per project.

Project grants from the Fund's resources have to be matched with grants from non-federal resources. For every \$1 supplied the Fund pledges a matching \$1.

Source: www.ec.gc.ca/financement-funding/default.asp?lang=En&n=923047A0-1#_09

UNITED STATES

Landscape Conservation Initiatives

Thanks to the 2008 Farm Bill, the United States Department of Agriculture offers voluntary conservation programmes in the form of grants to land owners and farmers who manage their land and their crops in a sustainable and environmentally-friendly way. These programmes are available through the Natural Resources Conservation Service (NRCS) which is responsible for cleaner water and air, healthier soil and enhanced wildlife habitats. Local partnerships are able to respond to national conservation goals.

The 2014 Farm Bill highlights the need to build effective partnerships and obtain meaningful results. The NRCS offers both technical and financial assistance and sets up easement programmes.

Source: www.nrcs.usda.gov/wps/portal/nrcs/detailfull/nm/home/?cid=stelprdb1042113

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Appendices to the Exploratory Report

References of some legal texts

1. **Law No. 96-590 of 2 July 1996 on the “Heritage Foundation”, France (*Fondation du patrimoine*)**
2. **Federal Decree granting financial support for the safeguarding and management of traditional rural landscapes, Switzerland (Swiss Landscape Fund - *Fonds Suisse pour le paysage*)**
3. **National Heritage Act of 1980, United Kingdom (establishing the National Heritage Memorial Fund)**

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1. Law No. 96-590 of 2 July 1996 on the “Heritage Foundation”, France (*Fondation du patrimoine*)

Page 10002

JOURNAL OFFICIEL DE LA REPUBLIQUE FRANÇAISE

3 juillet 1996

LOI no 96-590 du 2 juillet 1996 relative à la « Fondation du patrimoine »
NOR: MCCX9500192L

Art. 1er. - La « Fondation du patrimoine » est une personne morale de droit privé à but non lucratif, soumise aux règles relatives aux fondations reconnues d'utilité publique, sous réserve des dispositions de la présente loi.

Art. 2. - La « Fondation du patrimoine » a pour but de promouvoir la connaissance, la conservation et la mise en valeur du patrimoine national.

Elle s'attache à l'identification, à la préservation et à la mise en valeur du patrimoine non protégé.

Elle contribue à la sauvegarde des monuments, édifices, ensembles mobiliers ou éléments remarquables des espaces naturels ou paysagers menacés de dégradation, de disparition ou de dispersion. Elle concourt ainsi à l'emploi, à l'insertion, à la formation et à la transmission des savoir-faire dans les secteurs de la restauration et de la valorisation du patrimoine et des sites.

Elle apporte son concours à des personnes publiques ou privées, notamment par subvention, pour l'acquisition, l'entretien, la gestion et la présentation au public de ces biens, qu'ils aient ou non fait l'objet de mesures de protection prévues par la loi.

Elle peut également acquérir les biens visés au troisième alinéa lorsque cette acquisition est nécessaire aux actions de sauvegarde qu'elle met en place.

Elle peut attribuer un label au patrimoine non protégé et aux sites. Ce label est susceptible d'être pris en compte pour l'octroi de l'agrément prévu au 1^o ter du II de l'article 156 du code général des impôts.

Art. 3. - La « Fondation du patrimoine » est constituée initialement avec des apports dont les montants figurent dans les statuts approuvés par le décret en Conseil d'Etat prévu à l'article 11.

Ces apports initiaux peuvent être complétés par des apports supplémentaires dont les montants sont approuvés par un décret.

L'admission de nouveaux fondateurs dans les conditions prévues par les statuts peut être prononcée par un décret qui indique le montant de leurs apports.

Sont dénommées fondateurs les personnes publiques ou privées désignées dans les décrets mentionnés ci-dessus.

Les droits des fondateurs ne peuvent être ni cédés ni échangés, sauf autorisation spéciale donnée dans les mêmes formes. En cas de disparition de l'un d'eux, ses droits sont répartis entre les autres fondateurs selon les modalités prévues par les statuts.

Des personnes physiques ou morales, publiques ou privées, peuvent adhérer dans les conditions prévues par les statuts à la « Fondation du patrimoine » à condition de s'acquitter d'une cotisation annuelle dont le montant est déterminé par le conseil d'administration. Cette adhésion ouvre droit aux avantages prévus par les statuts.

Art. 4. - Les fondateurs sont tenus des dettes de la « Fondation du patrimoine » dans la limite de leurs apports.

Les créanciers de la « Fondation du patrimoine » ne peuvent poursuivre les fondateurs pour le paiement des dettes de celle-ci qu'après l'avoir préalablement et vainement poursuivie.

Art. 5. - Les biens visés au cinquième alinéa de l'article 2, dont la « Fondation du patrimoine » est propriétaire, ne peuvent être saisis par ses créanciers. Cette disposition n'affecte pas les droits des créanciers du précédent propriétaire d'un bien lorsqu'ils ont fait l'objet d'une publicité régulière.

Art. 6. - La « Fondation du patrimoine » est administrée par un conseil d'administration, qui élit son président.

Le conseil d'administration est composé :

1°. D'un représentant de chacun des fondateurs, disposant chacun d'un nombre de voix déterminé proportionnellement à sa part dans les apports, dans la limite du tiers du nombre total des voix ;

2°. D'un sénateur, désigné par le président du Sénat, et d'un député, désigné par le président de l'Assemblée nationale ;

3°. De personnalités qualifiées désignées par l'Etat ;

4°. De représentants des collectivités territoriales ;

5°. De représentants élus des membres adhérents de la « Fondation du patrimoine ».

Les représentants des fondateurs doivent disposer ensemble de la majorité absolue des voix au conseil d'administration.

Les statuts déterminent les conditions de désignation et de renouvellement des membres du conseil. Ceux-ci exercent leurs fonctions à titre gratuit.

Un conseil d'orientation donne des avis et formule des recommandations sur la politique définie et les actions mises en œuvre par la « Fondation du patrimoine ». Il est composé notamment de représentants des associations de défense et de mise en valeur du patrimoine et de personnalités particulièrement compétentes en matière de protection, de conservation et de valorisation du patrimoine et des sites.

Art. 7. - Les ressources de la « Fondation du patrimoine » comprennent les versements des fondateurs, les revenus de ses biens, les produits du placement de ses fonds, les cotisations, les subventions publiques, les dons et legs et, généralement, toutes recettes provenant de son activité.

Lorsqu'elle possède des parts ou actions des sociétés détenues ou contrôlées par les fondateurs, la « Fondation du patrimoine » ne peut exercer les droits de vote attachés à ces actions.

Art. 8. - Dans les conditions prévues par le code de l'expropriation pour cause d'utilité publique, la procédure d'expropriation prévue par l'article 6 de la loi du 31 décembre 1913 sur les monuments historiques et par les dispositions de la loi du 2 mai 1930 ayant pour objet de réorganiser la protection des monuments naturels et des sites de caractère artistique, historique, scientifique, légendaire ou pittoresque, ainsi que la procédure de préemption prévue par les articles 37 et 38 de la loi du 31 décembre 1921 portant fixation du budget général de l'exercice 1922, peuvent être menées par l'Etat, sur demande ou avec l'accord de la « Fondation du patrimoine », au bénéfice et à la charge de celle-ci. La « Fondation du patrimoine » gère les biens mentionnés au précédent alinéa aux fins et dans les conditions définies par un cahier des charges.

Elle peut les céder de gré à gré à des personnes publiques ou privées dans les conditions prévues à l'article 9-2 de la loi du 31 décembre 1913 précitée.

Les dispositions du quatrième alinéa de l'article 8 de la loi du 31 décembre 1913 précitée sont applicables à l'aliénation des immeubles classés acquis par la « Fondation du patrimoine » en application du présent article.

Art. 9. - La « Fondation du patrimoine » peut recevoir, en vue de la réalisation d'une œuvre d'intérêt général à but non lucratif se rattachant à ses missions, l'affectation irrévocable de biens, droits ou ressources qu'elle gère directement sans que soit créée une personne morale nouvelle.

Cette affectation peut être dénommée fondation.

Art. 10. - Les dispositions du code général des impôts applicables aux fondations reconnues d'utilité publique sont applicables à la « Fondation du patrimoine ».

Art. 11. - La reconnaissance d'utilité publique de la « Fondation du patrimoine » est prononcée par le décret en Conseil d'Etat qui en approuve les statuts.

La « Fondation du patrimoine » jouit de la personnalité morale à compter de la date de publication au Journal officiel de ce décret. La reconnaissance peut être retirée, dans les mêmes formes, si la fondation ne remplit pas les conditions nécessaires à la réalisation de son objet.

Art. 12. - L'autorité administrative s'assure de la régularité du fonctionnement de la « Fondation du patrimoine ». A cette fin, elle peut se faire communiquer tous documents et procéder à toute investigation utile. La « Fondation du patrimoine » adresse, chaque année, à l'autorité administrative un rapport d'activité auquel sont joints les comptes annuels. L'Etat désigne un ou plusieurs commissaires du Gouvernement qui assistent aux séances du conseil d'administration de la « Fondation du patrimoine » avec voix consultative. Ils peuvent demander une seconde délibération qui ne peut être refusée. Dans ce cas, le conseil d'administration statue à la majorité des deux tiers.

Art. 13. - Il est inséré, après l'article L. 111-8 du code des juridictions financières, un article, L. 111-8-1, ainsi rédigé :

« Art. L. 111-8-1. - La « Fondation du patrimoine » est soumise au contrôle de la Cour des comptes. »

Art. 14. - La « Fondation du patrimoine » peut seule utiliser cette dénomination. Le fait d'enfreindre les dispositions du présent article est puni d'une amende de 25 000 F.

La présente loi sera exécutée comme loi de l'Etat.

Fait à Paris, le 2 juillet 1996.

Jacques Chirac
Par le Président de la République :

Le Premier ministre,
Alain Juppé

Le garde des sceaux, ministre de la justice,
Jacques Toubon

Le ministre de l'économie et des finances,
Jean Arthuis

Le ministre de la culture,
Philippe Douste-Blazy

2. Federal Decree granting financial support for the safeguarding and management of traditional rural landscapes, Switzerland (Swiss Landscape Fund - *Fonds Suisse pour le paysage*)

451.51

**Arrêté fédéral
accordant une aide financière en faveur de la
sauvegarde et de la gestion de paysages ruraux traditionnels**

du 3 mai 1991 (Etat le 1^{er} août 2011)

L'Assemblée fédérale de la Confédération suisse,

vu l'art. 78, al. 3, de la constitution^{1,2}

vu une initiative parlementaire du 26 novembre 1990³,

vu l'avis du Conseil fédéral du 4 mars 1991⁴,

arrête:

Art. 1 Principe

¹ La Confédération accorde, dans les limites des moyens disponibles, une aide au financement des mesures visant à sauvegarder et à entretenir des paysages ruraux traditionnels. ⁵

² Elle institue un fonds spécial à cet effet.

Art. 2 Objet de l'aide

L'aide financière est accordée pour l'exécution de mesures destinées notamment à:

- a. protéger, préserver, entretenir ou reconstituer des paysages ruraux traditionnels;
- b. maintenir et encourager les modes d'exploitation traditionnels et adaptés aux conditions locales;
- c. protéger, préserver, entretenir, rénover ou reconstituer des bâtiments ou des voies de communication historiques ou d'autres éléments du paysage rural traditionnel;
- d. informer sur la nécessité de sauvegarder et d'entretenir ces paysages.

Art. 3 Bénéficiaires de l'aide

Les bénéficiaires de l'aide peuvent être:

RO 2007 6167

¹ RS 101

² Nouvelle teneur selon le ch. I de la LF du 18 juin 2010, en vigueur depuis le 1^{er} août 2011 (RO 2010 4999; FF 2009 6853 6867).

³ FF 1991 I 903

⁴ FF 1991 I 1404

⁵ Nouvelle teneur selon le ch. I de la LF du 18 juin 2010, en vigueur depuis le 1^{er} août 2011 (RO 2010 4999; FF 2009 6853 6867).

- a. les cantons, les communes, d'autres collectivités de droit public et les institutions de droit public indépendantes;
- b. des personnes physiques ou morales de droit privé.

Art. 4 Ampleur de l'aide

L'aide peut représenter, selon l'importance du projet, 80 % de coûts déterminants, et exceptionnellement la totalité de ceux-ci.

Art. 5 Octroi de l'aide

¹ L'aide est accordée sur demande motivée.

² Lorsque les coûts déterminants ne sont que partiellement connus au moment de la décision, l'aide est d'abord décidée dans son principe, en vertu de l'art. 17, al. 1, de la loi du 5 octobre 1990 sur les subventions⁶.

Art. 6⁷

Art. 7 Relations avec d'autres subventions

L'aide accordée au titre du présent arrêté peut s'ajouter à d'autres aides financières ou indemnités, sauf dispositions contraires.

Art. 8⁸

Art. 9 Commission

¹ Les décisions concernant l'octroi, le refus et le remboursement de l'aide financière sont prises par une commission de neuf à treize membres, instituée par le Conseil fédéral. La Confédération, les cantons et les organisations de protection de la nature, du paysage et du patrimoine y sont représentés de façon appropriée.

² Le Conseil fédéral nomme le président de la commission. Pour le reste, elle se constitue elle-même et désigne son secrétariat; elle se donne un règlement, qui doit être approuvé par le Département fédéral de l'environnement, des transports, de l'énergie et de la communication⁹.

⁶ RS 616.1

⁷ Abrogé par le ch. I de la LF du 8 oct. 1999, avec effet au 1^{er} août 2011 (RO 2000 935; FF 1999 861 880).

⁸ Abrogé par le ch. II 22 de la LF du 20 mars 2008 relative à la mise à jour formelle du droit fédéral, avec effet au 1^{er} août 2008 (RO 2008 3437; FF 2007 5789).

⁹ La désignation de l'unité administrative a été adaptée en application de l'art. 16 de l'O du 17 nov. 2004 sur les publications officielles (RO 2004 4937).

Art. 10 Fonds

¹ Un fonds sans personnalité juridique est institué pour assurer le financement de l'aide. Les Chambres fédérales décident de l'alimentation du fonds par un arrêté fédéral simple.

² Le fonds peut en outre être alimenté par des dons de tiers.

³ Le fonds est administré par la commission.

⁴ Le solde éventuel du fonds, au terme de la validité du présent arrêté, sera utilisé pour accorder des aides financières ou des indemnités, conformément aux objectifs fixés à l'article premier.

Art. 11 Référendum et entrée en vigueur

¹ Le présent arrêté est de portée générale; il est sujet au référendum. ¹⁰

² Il entre en vigueur avec effet rétroactif au 1^{er} août 1991; sa validité prend fin le 31 juillet 2001.

³ La validité du présent arrêté est prorogée jusqu'au 31 juillet 2011. ¹¹

⁴ La validité du présent arrêté est prorogée jusqu'au 31 juillet 2021. ¹²

¹⁰ Nouvelle teneur selon le ch. I de la LF du 18 juin 2010, en vigueur depuis le 1^{er} août 2011 (RO 2010 4999; FF 2009 6853 6867).

¹¹ Introduit par le ch. I de la LF du 8 oct. 1999, en vigueur depuis le 1^{er} août 2001 (RO 2000 935; FF 1999 861 880).

¹² Introduit par le ch. I de la LF du 18 juin 2010, en vigueur depuis le 1^{er} août 2011 (RO 2010 4999; FF 2009 6853 6867).

3. National Heritage Act of 1980, United Kingdom (establishing the National Heritage Memorial Fund)

Changes to legislation: There are currently no known outstanding effects for the National Heritage Act 1980, Part I. (See end of Document for details)



National Heritage Act 1980

1980 CHAPTER 17

PART I

THE NATIONAL HERITAGE MEMORIAL FUND

Establishment of National Heritage Memorial Fund.

- (1) There shall be a fund known as the National Heritage Memorial Fund, to be a memorial to those who have died for the United Kingdom, established in succession to the National Land Fund, which shall be applicable for the purposes specified in this Part of this Act.
- (2) The Fund shall be vested in and administered by a body corporate known as the Trustees of the National Heritage Memorial Fund and consisting of a chairman and not more than **[F¹fourteen]** other members appointed by the Prime Minister.
- (3) The persons appointed under this section shall include persons who have knowledge, experience or interests relevant to the purposes for which the Fund may be applied and who are connected by residence or otherwise with England, Wales, Scotland and Northern Ireland respectively.
- (3A) The Prime Minister shall consult the Scottish Ministers before appointing—
 - (a) the chairman of the Trustees, and
 - (b) any person under this section on the ground that he is connected by residence or otherwise with Scotland.]
- (4) References in this Part of this Act to the Trustees are to the body constituted by subsection (2) above; and Schedule 1 to this Act shall have effect with respect to the Trustees and the discharge of their functions.