

INTERNATIONAL LEGAL TOOLS FOR RECOGNITION ADOPTED WITHIN BOLOGNA PROCESS:

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The meeting of the Intergovernmental Committee of the Convention on the Recognition of Qualifications Concerning Higher Education in the European Region, which followed ENIC/NARIC meeting, adopted two new documents that are aimed at proper implementation of the Convention: the Council of Europe/UNESCO Code of Good Practice for the Provision of Transnational Education¹ and the Recommendation on Criteria and Procedures for the Assessment of Foreign Qualifications.

The next meeting of the Intergovernmental Committee of the Lisbon Recognition Convention in Strasbourg in 2004 adopted the Council of Europe/UNESCO Recommendation on the Recognition of Joint degrees

.All these documents are international legal texts that supplement the Lisbon Convention.

Convention sets principles, Criteria and Procedures show way of implementation

The Recommendation on Criteria and procedures is a step forward from the Lisbon Convention itself

The work at the draft Recommendations was completed after the signature of the Bologna declaration, which brought many new issues to the recognition (see above). As well, the work of the Council of Europe/UNESCO working group at the research of transnational education phenomenon, and the work of another Council of Europe working party at recognition of qualifications held by the refugees were already at quite advanced stages at that time. This gave a possibility to the group elaborating Recommendations for the Criteria and Procedures to introduce a number of aspect into the final document, namely:

¹ An article about Code of Good practice can be found in 2001 Spring issue of the EAIE forum

- while the Convention as such is dealing with academic recognition only, the Recommendations take into account that the same principles can be applied for the "de facto" recognition² for the labour market;
- while the Convention itself only concerns qualifications awarded within the setting of a national higher education system, the Recommendations allow to extend the recognition to qualifications awarded after completion of such transnational (as well as joint "international", corporate etc. programmes, which comply with the Code of Good Practice in the Provision of Transnational Education;
- while the Convention as such is more oriented towards the qualifications, awarded after the completion of "regular" higher education programmes, the Recommendation has an emphasis on the output (learning outcomes, competencies) rather than input (curricula, course programmes, duration) characteristics, therefore it also opens doors for recognition of lifelong learning or other non-traditional qualifications,
- while the Convention as such mainly concerns the cases where full information about the qualification in question is available, the Recommendations take into account the findings of the working party that studied recognition possibilities of refugee qualifications, where it is usually not possible to gather a full information.

Recommendations for the Criteria and procedures codifies the existing best practices

The basic principles of the recognition of foreign qualifications are set in the Lisbon Convention. To put it short, the States Parties of the Convention determine themselves to recognise each others equal level qualifications *unless substantial differences can be demonstrated*.

The Recommendation on Criteria and Procedures is neither bringing something revolutionary or totally remote to the recognition community, nor is it telling that recognition should always be granted. In fact, it rather codifies the established best practice among credential evaluators and builds on this practice in suggesting further improvements.

To ensure a fair and proper recognition in the European Higher Education area, it is crucial, that similar recognition cases will be considered in reasonably similar ways throughout the European region.

There will always be some differences between the "foreign" and the appropriate "home" qualification.

The differences can be found in

- learning outcomes,
- access to further activities,
- key elements of the programme(s), as well as in
- the quality of the programme and/or institution at which the qualification was awarded.

In order to ensure fair recognition, the most important is to establish, if the differences should be considered as substantial.

The Recommendations urge credential evaluators to look at the differences, keeping in mind the purpose for which the recognition is sought - the relative importance of different issues should be different at seeking employment or seeking admission to further studies (and even among different possible kinds of further studies).

² i.e. the recognition in the cases when the profession is not regulated.

Recommendation reminds of possibilities to grant partial or alternative recognition.

For the holder of the foreign qualification the non-recognition can have heavy consequences. It is therefore important not to give yes/no type recognition decisions but rather to look if another fair decision is possible that would better suit the applicant.

Even if the substantial differences between the foreign and the appropriate "home" qualification are evident, the Recommendations always suggest, that alternative or partial recognition should be considered, such as

- recognition of the foreign qualification as comparable to a qualification of the host country, but not to that indicated by the applicant;
- partial recognition of the foreign qualification, or
- full or partial recognition of the foreign qualification subject to the applicant successfully taking additional examinations or aptitude tests.

Numerous suggestions regarding the procedures are finally put in a sequence forming a sequence of steps in the practical assessment of a foreign qualification (see page 40).

**Recognition Problems and Solutions of Transnational Education –
the Code of Good Practice**

In the recent years and especially with the development of the modern information technologies, a phenomenon called transnational education becomes more and more widespread.

In the case of transnational education the students do not move to study in other countries – they study in their home country or even at home, but the credentials are awarded in the name of a foreign institution.

Transnational education (TE) has its positive and negative aspects. Possible recognition problems of TE qualifications are often caused by the fact that TE programmes as “foreign” ones are not quality-checked by the receiving country, but, as programmes provided abroad, they are also hidden from the quality assurance system of the sending country. The main concerns reported by the receiving countries are the following: doubts about the proficiency of the staff involved in the provision of TE, evidence that sometimes the transnational programmes are very different from those provided in the awarding institution itself as well as evidence that TE qualifications sometimes are “easy” – i.e. that providers of TE either shorten the study time or lower the admission/ graduation requirements.

Types of transnational provision and possible recognition problems

Transnational education (TE) is defined as: all types of higher education study programmes or educational services (including distance education) in which the learners are located in a country different from the one where the awarding institution is based.

Transnational education results from the process of merging the interests of both sending and receiving institutions. It is often a response to a demand for higher education to which the national system is not able (or willing) to respond, e.g.:

- national system does not offer a kind of programmes;
- national system is *elite* higher education and lots of qualified applicants don't gain admission;
- national system does not provide opportunities for learning in parallel to work;
- national system does not provide HE in minority languages;
- national system restricts women's access;

- national system is too expensive;
- transnational programmes are more attractive.

Transnational education may involve several kinds of arrangements

Programme articulations result from co-operation among higher education institutions of different countries. They can lead to e.g. programme twinning, joint or double degrees.

Provided that both higher education institutions are recognised in their own countries, this kind of transnational education should not lead to too many problems.

Branch campuses. Higher education institutions can establish ***branch campuses*** in other countries. In many cases the mother institution is a recognised institution in its own country. However, like in other cases of transnational education, because of a number of reasons described below, it is worth asking if the recognition of the awards of mother institution can be extended to the ones of the branch.

Franchising. One of the most common cases of TE is *franchising*: a foreign institution does not establish a branch in the receiving country but, instead, allows some institution in the receiving country to deliver its programmes. The qualifications awarded however are those of the foreign sending institution.

The franchisee can be a recognised or a non-recognized higher education institution of the receiving country, a non-higher education institution, a company running courses, or a company established for the only purpose of running franchised programmes. Franchising usually involves agents i.e. third parties who recruit students, organise tuition, provide information to students and to sending institution, etc.

It has been indicated in many cases that if there is a problem with transnational education, an agent will most probably be the troublemaker.

Offshore institutions claim that they belong to the education system of another country, but they actually lack a mother institution in that country. It is rather difficult to judge if an offshore institution really has the features of the education system it claims to belong to.

"International" institutions. Some of transnational education providers claim they are *"international" institutions*. If an institution is international, the qualifications it awards do not belong to the education system of any particular country. Even more, no particular country is responsible for the quality of education provided.

Transnational distance education. A substantial part of TE is provided in the form of *distance education*. Today distance education almost always involves a component of tutoring, consultations, guidance, quite often the examinations and defence of thesis are organised in the country of students' residence. This makes the operation of transnational distance education contact points quite similar to running of franchised programmes.

A number of issues arise when one has to assess a qualification earned transnationally.

Authenticity. Since the programmes delivered through TE are often modified compared to those delivered at the sending institution itself, since they are often taught by local staff and in a different language than at the sending institution itself, are the qualifications awarded through TE really identical to the ones awarded after completion of studies at the sending institution? And do the students, after all, receive the spirit and culture of the institution (and country) at which they seemingly study?

Quality. Are the same quality assurance bodies, which check the quality at the sending institution, actually assessing delivery of its programmes abroad? Are the quality assurance bodies of the receiving country aware of the quality of programmes delivered through TE?

Staff. The quality also includes the quality of staff. One of the observations is that the requirements towards staff proficiency and its involvement in research at the branches/franchised institutions abroad can be quite different from those at the sending institution itself.

All the above observations and concerns lead the credential evaluators to the conclusion that recognition of a qualification from the sending institution can not be automatically transferred to a qualification of the same name, which has been delivered through TE. Even more, today's main instrument for recognition – the Lisbon convention³, is strictly applicable to qualifications “gained in another country” and, in principle, cannot be directly applied to TE qualifications.

Code of Good Practice – a tool for problem solving

Transnational education, however, is a rapidly growing phenomenon and any attempt to outlaw it or just ignoring its existence would be a major mistake. In order to find a solution, the UNESCO/Council of Europe Working party elaborated a Code of Good Practice for the Provision of Transnational Education.

The main features of the Code in brief are the following.

According to the Code, the awarding institution is responsible for the whole provision of transnational education, including the quality of programme delivery at the providing institution, the requirements for admission and graduation as well as actions of the agents and the information they give to the students or receiving country's officials.

It is required that provision of TE should comply with the national legislation in both receiving and sending countries, the agreements/contracts setting out the rights and obligations of all partners should be written and legally binding.

Academic quality and standards of TE programmes as well as requirements regarding staff proficiency should be at least comparable to those of the awarding institution as well as to those of the receiving country. Awarding institutions together with providing institutions are accountable for quality assurance and control.

The admission of students, the teaching/learning activities, the examination and assessment requirements, academic workload for transnational study programmes should be equivalent to those of the same or comparable programmes delivered by the awarding institution.

Special attention is paid to transparency of the delivery of transnational education and provision of full and reliable information upon request of the receiving country's authorities.

Putting it short, a full compliance with all the requirements listed in the Code would ensure that the transnationally earned qualifications are in fact of the same quality as the ones awarded after studies in the awarding institution itself, therefore the final clauses of the Code stipulate that qualifications issued through transnational programmes, complying with the provisions of the Code, should be assessed in accordance with the stipulations of the Lisbon Recognition Convention.

The Code was discussed adopted at the Intergovernmental committee of the Lisbon Recognition Convention, which will take place on June 6, 2001 in Riga.

³ Convention on the Recognition of Qualifications Concerning Higher Education in the European Region.

Recommendation on the Recognition of Joint degrees

Establishing programmes leading to joint degrees is seen as a useful tool on the way to the European Higher Education Area. As demonstrated by the EUA Joint degrees survey [12] (2002), work on joint degree programmes stimulates the implementation of the Bologna declaration action lines by establishing joint quality assurance, improving recognition, stimulating employability of graduates across Europe, mobility of students and teachers, etc. The main obstacles for establishing joint degrees are a lack of appropriate provisions in the national legislation and the fact that current international legal framework for recognition applies only to national qualifications, while joint degrees in the strict legal sense do not belong to a single national higher education system.

As regards amending the national legislations, in their Berlin communiqué, the European ministers agreed to engage at the national level to remove legal obstacles to the establishment and recognition of joint degrees. The EUA conference on Joint degrees in Cluj, Romania in October 2003 led to practical recommendations with regard to cooperation among partners in establishing joint degrees (www.eua.be).

A major development under the EU SOCRATES programme is the Erasmus Mundus programme which assists in establishing joint degrees and contains specific provisions for improving recognition of joint degrees between the partner institutions and countries [13].

In order to improve the international recognition of joint degrees, ENIC and NARIC networks drafted a Recommendation that was adopted by the Lisbon Recognition Convention Intergovernmental Committee on June 9, 2004. The Recommendation extends the main principles of the Convention to joint degrees, stipulating that holders of a joint degree have a right to a fair assessment of their joint degree, establishing that a joint degree is recognised unless substantial differences can be clearly demonstrated between the joint degree in question and the host country's qualification. The Recommendation also sets requirements that should be fulfilled as a precondition for applying the Lisbon convention principles to a joint degree: each part of the joint curriculum has to be quality assessed or be part of a recognised national qualification, if the joint degree in question is awarded in the name of a larger consortium, care should be taken that each consortium partner is a trustworthy institution, the Diploma supplement and ECTS should be used as transparency tools, and the joint character of the award should be clearly indicated and described.

Conclusions

The recognition networks have rapidly reacted towards the new developments in higher education in Europe.

The issues to be specifically addressed in order to ensure proper recognition in the European Higher Education Area have been identified and the work has begun.

A number of new useful recognition tools have been developed and adopted.

However, the new principles and legal tools can not work alone. It is of an utmost importance at this stage that the wider recognition community - the admissions officers and study departments of the higher education institutions as well as employers and state institutions take the new tools, properly apply them and disseminate and develop further.