

Academic Recognition, Lisbon Recognition Convention Explanatory Report and Recommendations for Implementation (*Lissabon-Empfehlung allgemein*)

The following Explanatory Report is based on the text version which has been elaborated by the Secretary General of the Council of Europe and the Secretary General of UNESCO, and has been approved by the Diplomatic Conference from 8 to 11 April 1997 in Lisbon together with the Draft Convention.

The authentic texts have been drafted in English, French, Spanish, and Russian. The draft German translation has been provided for – just as the draft translation of the Convention – by the Foreign Office in Bonn. This draft is likewise applicable for Austria, provided that the terminology will be handled in a liberal way. Wherever there has been felt a need for Austria-specific explanations or terms those will be inserted in the text in Italic. Mention of further sources is made by the notes in the text.

This text as a whole has been, despite its great extent, taken as a basis for the national procedure of approval, because, on the one hand, its core part, which has been drafted in a precise way, is authorized internationally and can therefore be used in an inter-state way as means of interpretation, and, on the other, the Austria-specific inserts will serve at the same time as internal recommendations for implementation.

General Part

Basic principles

The Convention on the Recognition of Qualifications Concerning Higher Education in the European Region of 11 April 1997 („Lisbon Recognition Convention“), BGBl. III no. 71/1999, has the character of an amendment of and a supplement to the law and therefore needs, according to art. 50 para. 1 of the Federal Constitution Act – B-VG approval by the National Assembly. It has a non-political character and is suitable for an immediate application in the national area, so that there was no need for specific legislation according to art. 50 para. 2 B-VG. The Convention does not contain provisions which amend Constitutional law.

The Convention aims at defining equivalences in the area of secondary school leaving certificates and of higher education, i.e. at setting a framework for the mutual recognition of studies, examinations and academic degrees. It intends to support the national authorities as well as the universities

and universities of applied sciences with the assessment of qualifications acquired in another Party. This eases globally the mobility of students and graduates between the Parties. The binding decisions with regard to single cases will be done at any rate by the competent authorities of the universities or of the Fachhochschule sector. The provisions are based on the principle of mutual trust and confidence in the quality of secondary and higher education in the Parties and are considered justified with regard to the education in the Europe Region, which is, as to its level, more or less equivalent.

The present Convention is meant to replace step by step – i.e. due to the state of ratifications and accessions – the Conventions covering the recognition of qualifications concerning higher education, adopted within the frameworks of the Council of Europe and UNESCO. These are:

- European Convention on the Equivalence of Diplomas leading to Admission to Universities, BGBl. no. 44/1957, and its Protocol, BGBl. no. 327/1985;
- European Convention on the Equivalence of Periods of University Study, BGBl. no. 231/1957;
- European Convention on the General Equivalence of Periods of University Study, BGBl. no. 119/1992;
- European Convention on the Academic Recognition of University Qualifications, BGBl. no. 143/1961;
- Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region, BGBl. no. 244/1986.

The effects of the provisions for recognition on the admission to certain professional activities are, if at all, merely of indirect nature. The Convention does, therefore, not touch the scope of regulation of the EC Treaty. This fact has been confirmed also by the representatives of the European Commission who were present at the Diplomatic Conference in Lisbon. The conformity with EU law is therefore given.

Background

1. The proposal to elaborate a joint Council of Europe/UNESCO convention was made by the Secretary General of the Council of Europe in her letter of 30 October 1992 to the Director-General of UNESCO. The proposal was accepted by the Director-General in his letter of 28 December 1992.

The approach of the Council of Europe

2. The reasons for the Secretary General's proposals were the developments in higher education in Europe since the 1960s (cf. paragraphs 4 - 6 below) and the rapid increase in the number of countries participating in the Council of Europe's work on education and culture.

The approach of UNESCO

3. The support given by UNESCO to this initiative sprang from the belief that a joint Convention, served by two major international organizations, would benefit all member States. It would help avoid the sometimes feared "two track" Europe and, being placed in the UNESCO framework, it would also better link the European region to other regions of the world.

Developments in higher education

4. With one exception, the European Higher Education Conventions¹ date from the 1950s or early 1960s. The UNESCO Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region dates from 1979. Higher education in Europe has changed dramatically since then, and the conventions have not been adjusted accordingly. On the national level, the predominant change has been the diversification of higher education. Whereas national higher education systems in the 1950s were made up of traditional universities run explicitly by State authorities or, as in the case of Catholic universities, implicitly approved by them, systems are now much more diverse. A large percentage of students in higher education now attend non-university institutions which provide shorter and more vocationally oriented courses, such as the German universities of applied sciences or the Norwegian statlige høgskoler or follow, in universities, non-traditional programmes of shorter duration with a stronger emphasis on professional education, such as the French Instituts Universitaires de Technologie (I.U.T.). This diversification and professionalization also reaches down into the feeder courses at secondary level, creating complex admission relationships to which the concept of international equivalence is hard to apply.

5. There has also been a rapid increase in the number of private institutions. This development, which is present in most countries, is particularly acute in some of the central and eastern European countries. For the purpose of this convention, however, the issue is not whether an institution is publicly or privately operated, but rather whether there are provisions for assuring the quality of its teaching and qualifications. The European Higher Education Conventions contain no provision for differentiating between the various institutions within a national system. Provisions to this effect have been included in Section VIII of the present Convention.

¹ ETS Nr. 15 European Convention on the Equivalence of Diplomas leading to Admission to Universities (1953)

ETS Nr. 49 Protocol to the European Convention on the Equivalence of Diplomas leading to Admission to Universities (1964)

ETS Nr. 21 European Convention on the Equivalence of Periods of University Study (1956)

ETS Nr. 32 European Convention on the Academic Recognition of University Qualifications (1959)

ETS Nr. 138 European Convention on the General Equivalence of Periods of University Study (1990)

6. Academic mobility has increased substantially during the lifetime of the current conventions, and especially during the past ten or fifteen years. In this respect, it may be interesting to note that ETS no. 21 European Convention on the Equivalence of Periods of University Study (1956) deals specifically with the recognition of periods of university study in modern languages as these were the subjects most commonly studied by students who spent a limited period of time at a foreign university in 1956, when the Convention was adopted. By way of contrast, ETS no. 138 European Convention on the General Equivalence of Periods of University Study (1990) deals with the recognition of periods of university study regardless of subject, while the UNESCO Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region, of an earlier date (1979), also deals with the recognition of partial studies, regardless of the subject. The vast increase in academic mobility has given the conventions on academic recognition much greater importance today. It is therefore increasingly important to bring the existing legal texts up to date.

7. Another major goal in elaborating a joint Council of Europe/UNESCO Convention, the aim of which is that it will ultimately replace the Conventions covering the recognition of qualifications concerning higher education in the European region adopted within the separate frameworks of the two Organizations, is to avoid a duplication of effort. This concern is also reflected in the decision to set up a joint Council of Europe/UNESCO Network of national information centres on academic mobility and recognition. The ENIC Network, established in June 1994, replaced the previous separate Networks of the two Organizations. It cooperates closely with the NARIC Network of the European Union.

Number of participating countries

8. All member States of the Council of Europe (40 as of 11 April 1997, but the number is likely to increase further (1)) have an automatic right to become Party to any European Convention. Other countries may be invited to do so by the Committee of Ministers. This invitation may be preceded, in the case of the European Higher Education Conventions, by a review of the education system of the country in question to determine whether it is "essentially equivalent" to the systems of the States already party to the Higher Education Convention in question. No such review is undertaken in the case of member States.

9. On the Council of Europe side, the main development has been the very substantial increase, in the past four years, in the number of countries taking part in the Council of Europe's programmes on education and culture. 44 countries have acceded to the European Cultural Convention as of 11 April 1997, and further accessions may be expected (2). The Council of Europe is also establishing contacts with other countries.

10. Thus, the number of potential signatory States to the European Higher Education Conventions is increasing rapidly, and the differences among the education systems of the potential signatory States may be becoming greater. This diversification, in turn, means that the assumption underlying

the European Higher Education Conventions (i.e., that national systems of higher education are essentially equivalent) is losing ground. This development could have rendered the European Equivalence Conventions obsolete unless a revision had been undertaken, through the elaboration of the present Convention.

11. The membership of the UNESCO Europe Region has also increased, due to the emergence of new independent States in the Region. At the 28th Session of the General Conference (1995), 49 Member States belonged to the Europe Region, even though some of these have also applied for membership of the Region of Asia and the Pacific. The number of Contracting States of the UNESCO Europe Region Convention had reached 43 by 11 April 1997.

12. The increase in the number of States party to the European Cultural Convention also means that there are no longer substantial differences between the number of countries involved in the Council of Europe's programmes of educational and cultural cooperation and the UNESCO Europe Region. The main remaining difference is that the UNESCO Europe Region includes some non-European countries, such as Canada, Israel and the United States of America. The Secretary General of the Council of Europe and the Director-General of UNESCO, therefore, agreed on the need to coordinate, as far as possible, the Council of Europe's activities in academic recognition and mobility with those of the UNESCO Europe Region. It should be noted that the difference in membership between the two frameworks may again increase in the future, largely depending on the modes of cooperation of each Organization with the Caucasian and Central Asian republics of the former USSR.

Developments in recognition practice

13. Practices concerning the recognition of qualifications have developed considerably over the past decades. Whereas an assessment of foreign qualifications often entailed a detailed comparison of curricula and lists of material studied ("equivalence"), the emphasis has now shifted to a broader comparison of the qualifications earned ("recognition"). Likewise, a tendency has become apparent for formal international regulations to emphasize the procedures and criteria applicable to the process of recognition of foreign qualifications rather than to list or define degrees and diplomas that shall be recognized under the regulation.

The elaboration of the new Convention

14. The proposal to draw up a single, joint convention, which would eventually replace the European Higher Education Conventions as well as the UNESCO Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region, was submitted to the 16th Session of the Standing Conference on University Problems (CC-PU2) (Strasbourg, 24 - 26 March 1993). The CC-PU felt that a Feasibility Study should be carried out before a commitment was made to elaborate a joint convention. The CC-PU also underlined the

importance of ensuring its own participation in the procedure leading to any decision on the elaboration of a joint convention, and of giving its advice on the findings of the Feasibility Study. The CC-PU's position was confirmed by the Bureau of the Council for Cultural Cooperation (CDCC, Strasbourg, 12 - 13 May 1993). The proposal for a joint Feasibility Study was also approved by the 27th Session of the General Conference of UNESCO (Paris, November 1993).

15. By agreement between the two Organizations, the draft feasibility study was submitted to the 11th meeting of NEIC Network² of the Council of Europe (Strasbourg, 24-25 November 1993) for advice. A number of the comments of the NEIC Network were taken into account in the version of the draft Feasibility Study submitted to an ad hoc Expert Group.

16. The Feasibility Study (bearing the reference DECS-HE 94/25) was also submitted to an ad hoc Expert Group, appointed jointly by the two Organizations (Strasbourg, 3 - 4 February 1994). The experts were appointed in their personal capacity with due regard to the principle of equitable representation. The comments of the expert group were incorporated into the final version of the Feasibility Study. The Feasibility Study was also considered by the Higher Education and Research Committee (CC-HER) of the Council of Europe (Strasbourg, 27 - 29 April 1994), by the UNESCO Regional Committee for the Application of the Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region (hereafter "UNESCO Regional Committee for Europe") (Budapest, 18 June 1994) and by the ENIC Network (Budapest, 19 - 22 June 1994), which recommended that the Secretariats proceed to the elaboration of a joint draft Convention on the basis of the study.

17. The Feasibility Study was approved by the Executive Board of UNESCO on 2 May and by the Committee of Ministers of the Council of Europe on 5 September 1994. On 26-28 October 1994, the CC-HER Forum Role Conference, held in Malta, outlined the basic principles of a joint draft Convention. The decision making bodies of both Organizations thereby authorized the Secretariats to proceed with the elaboration of a draft convention with the assistance of a second ad hoc Expert Group and, at a later stage, with the participation of representatives of all potential signatory States. The ad hoc expert group held its first meeting at UNESCO/CEPES in Bucharest on 9 - 11 February 1995 and its second meeting in Strasbourg on 5 - 7 July 1995. A meeting of a small ad hoc Working Party on the definitions to be included in the Convention was held in The Hague on 15 - 16 May 1995.

18. A Progress Report on the elaboration of the Convention was considered by the Higher Education and Research Committee (CC-HER) of the Council of Europe (Strasbourg, 29 - 31 March 1995), by the UNESCO Executive Board at its 147th session (Paris, October 1995) and by the UNESCO General Conference at its 28th session (Paris, October - November 1995). A draft text of the Convention was considered by the ENIC Network (Ljubljana, 11 - 14 June 1995).

² Merged with the NIB Network of UNESCO in June 1994 to establish a single, joint Council of Europe/UNESCO Network – the ENIC Network (European Network of National Information Centres on academic mobility and recognition).

19. In October 1995, the draft Convention and Explanatory Report were sent to the national delegations of the Higher Education and Research Committee of the Council of Europe and the UNESCO Regional Committee for Europe, with copies to the ENIC Network, in order to encourage national consultations in potential signatory States. The draft was also sent to NGOs involved in the education activities of the Council of Europe. The draft Convention and Explanatory Report were submitted for consideration at the 1996 meetings of the Higher Education and Research Committee (Strasbourg, 27 - 29 March 1996) and of the Regional Committee (Rome, 16 - 17 June 1996). An Editorial Group met in Paris on 10 - 11 July 1996 in order to review all comments by the two Committees as well as individual comments by member States and NGOs.

20. A Consultation Meeting of representatives of all potential signatory States at the level of Ministries responsible for higher education was held in The Hague on 27 - 29 November 1996 at the invitation of the Dutch authorities. 46 potential signatory States were represented at this meeting.

21. The Convention was adopted at a Diplomatic Conference held in Lisbon on 8 - 11 April 1997 at the invitation of the Portuguese authorities. 44 Delegations were present at the Conference.

The title of the Convention

22. The term "qualifications concerning higher education" in the title of this Convention should be taken to include both qualifications earned through higher education and qualifications giving access to higher education.

23. The term "European Region" underlines that while Europe constitutes the main area of the Convention's application, certain States which do not geographically belong to the European continent (but which belong to the UNESCO Europe Region and/or are party to the UNESCO Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region), were invited to the Diplomatic Conference entrusted with the adoption of this Convention and are, thus, among the potential Parties.

24. The Convention covers assessment of qualifications concerning higher education for the purpose of recognition decisions or otherwise. However, as "recognition" is the key concept both of the previous conventions and of current practice in the field, it has been thought advisable to keep the term in the title of this Convention.

25. In view of the long official title of the Convention, and in gratitude to the Portuguese authorities for their invitation to hold the Diplomatic Conference in their capital, it is proposed that the Convention be known informally as the "Lisbon Recognition Convention".

Special Part

Section I

Definitions

Article I

The definitions in Section I of the Convention are given only for the purposes of the Convention, and they serve no further purpose. In particular, they do not in any way modify the definitions States and international institutions and organizations may use in their internal administrative systems and laws.

An effort has been made to limit the definitions to key terms in the Convention. No attempt has been made to define terms not used in the Convention, or used only in a marginal sense, even when such terms may be important in other contexts of higher education.

As a general principle, definitions have been provided only for what are considered the most generic terms. As an example, the term qualifications has been defined because it has been considered the generic term, whereas degrees, diplomas and titles have been considered examples of qualifications and have been listed as such in the Explanatory Report.

- Access (to higher education)

The terms "access" and "admission" are distinct, but linked. In a sense, they denote different steps in the same process towards participation in higher education. Access is a necessary, but not always sufficient, condition for admission to higher education. Further guidelines could be elaborated at national level by competent authorities.

The term "access" implies the assessment of applicants' qualifications with a view to determining whether they meet the minimum requirements for pursuing studies in a given higher education programme. Access is distinct from admission, which concerns individuals' actual participation in the higher education programme concerned.

Admission systems may be open, i.e., they may accept all candidates fulfilling the stipulated requirements, or selective, i.e., they may limit admission to a certain number of places or candidates. In an open admissions system all qualified candidates are admitted. Thus, the concepts of access and admission overlap. In a selective admissions system, however, access denotes the right to compete for admission, i.e., to gain access to the pool of qualified candidates from which the successful applicants for admission to the limited number of places available are selected. Thus, in a selective admissions system, a number of qualified candidates, having gained access to higher education, are not actually admitted to, i.e., are not actually allowed to pursue studies in, the higher education programme in question.

There are several different selective admissions systems, two of the most common being the numerus clausus system and the system in which selection is at the discretion of the higher education

institution concerned. Admission systems may operate at national, sub-national, institutional and/or other levels. In a given country, admission may be selective to all institutions, or open to some and selective to others. In a given institution, admission may be selective to all or only to some programmes, and different admissions systems or criteria may be applied to various programmes. The number of places available in a given programme, or the requirements for admission, may vary over time.

Most countries have developed an access and admissions policy aimed at increasing participation in quality higher education. This policy aims at the increase and widening of participation rates, retention rates and inter-institutional transfers between higher education institutions, particularly for persons belonging to under-represented groups.

Austria:

„Access“ means the general university entrance qualification (*allgemeine Universitätsreife*) in the sense of art. 64 para. 1 subpara. 3 UG, and of art. 4 para. 3 FHG.

- Admission (to higher education institutions and programmes)

See "access", above.

Austria:

This term covers the Austrian term Zulassung according to art. 63 UG. As it is made clear by the Convention itself, „admission“ goes beyond „access“. Likewise, according to art. 63 para. 1 UG, „access“ (i.e. the general university entrance qualification) is only one prerequisite for „admission“.

- Assessment (of institutions or programmes)

Assessment may be undertaken of a higher education institution as a whole, or of one or more of its programmes. In both cases, the purpose of the assessment is to determine whether the institution or programme meets the standards prescribed for higher education institutions and programmes in the Party concerned. In most cases, the assessment is carried out to determine whether an institution or programme meets the required minimum standard. In some cases, depending on national policies, the assessment may also be undertaken to establish a ranking of institutions or programmes, or to determine whether the achievements of the institution or programme in question reach a higher standard than the minimum. The Convention should not be read as taking a stand for or against one type of policy.

Methods and procedures for carrying out an assessment may vary from one country to another, as may the standards required of higher education institutions and programmes. Parties should therefore inform the other Parties of their assessment criteria and procedures, as well as of the results of the assessment, cf. Section VIII. Institutional self evaluation may be a part of the assessment process, as may the participation of an external body. The extent of the participation of an external body, if any, may vary.

Traditionally in Europe, quality is maintained through a public higher education system, in which the relevant Ministry and Parliament supervise the quality of autonomous higher education institutions, including the quality of education programmes and academic staff. They are linked to, but not interchangeable with, institutional or programme assessment, which is used as the generic term. Some examples of institutional and programme assessment are:

- * "academic audit" by the Higher Education Quality Council (HEQC) or "assessment" by the Higher Education Funding Councils (HEFCs) (United Kingdom);
- * "accreditation"³ (United States; under discussion in several European countries);
- * "*évaluation par le Comité National d'Evaluation (CNE)*" (France);
- * "visitatiecommissies" (visiting commissions) organized by the VSNU (*Vereinigung van samenwerkende Nederlandse universiteiten* (Association of Dutch Universities)) and the *Hoger Beroepsonderwijs (HBO)-Raad* (the Netherlands).

Assessment may entail activities aimed at the enhancement of quality assurance or quality assessment, which may be carried out in different ways. The Convention should not be read as taking a stand on particular mechanisms or methods of quality assurance, nor on the relative importance of institutional assessment and quality assurance.

In the context of this Convention, the assessment of higher education institutions or programmes refers to such assessment at a domestic level; i.e., the assessment is carried out by the competent authority of the country to the higher education system of which the institution or programme belongs or seeks to belong.

Austria:

For Austria, the evaluation according to art. 14 UG and art. 6 para. 2 FHG, and the Decree on University and Higher Education Statistics and Educational Documentation – UHSBV, BGBl. II No. 216/2019, is covered.

- Assessment (of individual qualifications)

An assessment of individual qualifications should be a written evaluation of, or statement on, the qualifications in question, and may be given for a variety of purposes, ranging from formal recognition to an informal statement on "what the qualification is worth" with no further purpose. The assessment may be made available to the competent authorities, to the holder of the qualifications in question and/or to other interested parties irrespective of whether a formal recognition decision is necessary, and within the respective national laws safeguarding privacy and the confidentiality of personalized information. The assessment may be issued by higher education institutions, agencies and competent authorities.

In the context of this Convention, the assessment of individual qualifications concerns the assessment of such qualifications at an international level, i.e., the assessment of qualifications with a

³ The term „accreditation“ is sometimes also used to imply the recognition of credits earned by an individual.

view to establishing their value in a Party other than that within the education system of which the qualifications have been issued.

Austria:

Here, every kind of assessment of foreign higher education qualifications is covered, no matter in which kind and for which purpose this happens. Die formal „recognition“ is a special case of it. Besides, other kinds of assessment are imaginable, starting with informal and conclusive assessment in the professional sector covered by private law, up to recommendations on classification. The latter are carried out also by the Federal Ministry of Education, Science and Culture. In doing so, this meets a demand of many employers and/or private persons, but also of organs of universities and universities of applied sciences, as a preliminary procedure preceding formal recognition procedures, in order to receive a non-binding estimation of studies and examinations passed at foreign institutions of higher education. The most important items of this estimation are: Recognition of the institution as an institution of post-secondary education in the country where it is located; level of the higher education programme; contents of study in an overview; extent of the programme; possible professional rights on the basis of the education. The national legal basis for delivering assessments by ENIC NARIC AUSTRIA is § 6 of the Recognition and Assessment Act – AuBG, BGBl. I No. 55/2016, in conjunction with the Lisbon Recognition Convention.

- Competent recognition authority

The definition is specifically concerned with the concept of "competent recognition authority". There may be other authorities competent for other parts of higher education.

The competent recognition authority may be a Ministry, other government office or agency, a semi-official agency, higher education institution, professional association or any other body officially charged with making formal and binding decisions on the recognition of foreign qualifications in the cases concerned. The competence of any such authority may extend to decisions on all kinds of recognition cases or be limited. Some examples are:

- * recognition within one higher education institution only;
- * recognition limited to one kind of higher education only, e.g., non-university higher education qualifications;
- * recognition for academic purposes only;
- * recognition for employment purposes only.

For the purpose of this definition, "competence" means the legal power to make a certain kind of decision or to take a certain kind of action; it is not concerned with "competence" in the sense of knowledge. Many bodies may be knowledgeable about the recognition of higher education qualifications without being "competent" in the legal sense.

Austria:

In Austria, responsibility depends on the kind and the purpose of recognition. Thus, for academic recognition universities and universities of applied sciences as well as the Fachhochschule Council (in single cases on the basis of bilateral agreements also the Federal Ministry of Education, Science and Culture), for professional recognition the relevant professional authorities come into question.

- Higher education

The concepts of *higher education*, *higher education institution* and *higher education programme* are interlinked, and the definitions and entries in the Explanatory Report should be read in context.

Higher education builds on the level of competence, knowledge and skills generally acquired through secondary education, even though such competence, knowledge and skills may also be acquired in other ways, such as through self education or work and life experience. For the considerable majority of students, however, the competence, knowledge and skills in question are acquired through formal secondary education.

It is important to underline that higher education does not only "come after" secondary education in time, but that it builds on competence, knowledge and skills of a level normally acquired in secondary education. While higher education is normally offered through higher education programmes at higher education institutions, it should be noted that higher education institutions may give some courses of study which are not of higher education level, and which would therefore not be considered as higher education. Conversely, institutions which are not considered as belonging to the higher education system of a Party may offer some higher education programmes. Such courses of study may, for example, be specially designed for groups other than the institution's regular students.

The exact definition of this level, and consequently of higher education and of a higher education institution or programme, may vary somewhat from one country to another. Consequently, the concept of higher education institution may also vary. For example, in some countries, nursing is considered to be a field of higher education, whereas in other countries, nursing is considered to be part of post-secondary education without being higher education. While general indications for the definition of higher education can be given, the exact definition and the usage of the term in this Convention cannot be divorced from the national practices of the Parties to the Convention. A programme or course of study falling within the definition of higher education in one Party does not therefore necessarily fall within the definition of higher education in all other Parties.

- Higher education institution

A higher education programme is a course of study or a set of courses of study, the various components of which complement and build on each other in order to provide the student with a higher education qualification. It is usually provided in one given academic discipline, such as biology, computer science or history. However, in some countries, higher education programmes may focus on two or more disciplines, such as in the German Magister Artium programme or the Norwegian cand. mag. programme. Any given higher education programme may be broadly or narrowly defined, such as law or international copyright law. It may or may not lead to a specific employment skill, on the one hand, or a qualification in a general academic field, on the other hand.

Higher education programmes are generally, but not always, offered at higher education institutions, most of which offer several programmes. While "programme" denotes the academic field of study and requirements, "institution" denotes the organizational framework established in order to provide higher education. Universities are one kind of higher education institution, generally characterized by a mission of both teaching and research in a broad range of disciplines and at a variety of levels. Other types of higher education institutions may have a narrower range of higher education programmes aimed more particularly at giving their students a specific professional competence, or have higher education programmes primarily in one or in a limited number of academic fields. The names and organizational models of, as well as the kind and range of subjects offered by, non-university higher education institutions may vary considerably from one country to another, as well as within individual countries. Universities of applied sciences, *fóiskola*, *institutos politécnicos*, *hogescholen*, *colleges* and *statlige høgskoler* are some examples of non-university higher education institutions.

In order to be considered as a higher education institution or programme in the terms of the present Convention, the institution or programme in question should be recognized by the competent authorities of a Party as belonging to its system of higher education. See also "Assessment (of institutions or programmes)" and Section VIII.

Austria:

Higher education institutions are the public universities, the private university colleges, the universities of applied sciences and, due to provisions laid down in the Concordat, the Schools of Theology.

- Higher education programme

See "higher education institution".

Austria:

This means: the bachelor programmes, master programmes, diploma programmes, licentiate programmes, doctoral programmes and further education programmes.

- Period of study

The definition of "period of study" underlines the fact that the elements making up a partial study, however small or large, must constitute a component of a higher education programme. They cannot be elements randomly chosen without relevance to the programme in question. In order for periods of study to be recognized, they must be documented by the higher education institution at which they were earned and evaluated. Periods of study are often, but not always, undertaken within the context of organized mobility programmes. The work successfully completed in the course of a period of study may be expressed in terms of credits. Credits earned may be transferred to other higher education institutions.

- Qualification
 - A. Higher education qualification
 - B. Qualification giving access to higher education

Two types of qualifications are relevant to the Convention:

- a) higher education qualifications;
- b) qualifications giving access to higher education.

Both kinds of qualifications are included in the term qualifications concerning higher education, (cf. the title of the Convention).

In the terms of the Convention, a higher education qualification is any document attesting the successful completion of a higher education programme. A qualification giving access to higher education is any document attesting the successful completion of an education programme considered in the Party concerned as qualifying, in principle, the holder of this qualification for participation in higher education. It is noted that in some countries, certain non-educational qualifications may give access to higher education, cf. Article IV.8 on non-traditional qualifications. Non-traditional qualifications are not covered by this definition of the term qualification.

It is realized that "qualification" may also be taken to mean the competence, knowledge and skills acquired through the programme in question, and that it is indeed the acquisition of these that make the issuing of the document possible. However, the Convention is concerned with the recognition of documented competence, knowledge and skills without recourse to repetition of assessment, examination and testing of such competence, knowledge and skills. Therefore, the definition of "qualification" for the purpose of this Convention is limited to the documentation of competence, knowledge and skills. Particular cases in which such documentation is not possible are dealt with in Section VII of this Convention.

Qualification is further taken to mean any document attesting the successful completion of a fully completed programme, rather than any part thereof. The length and content of a completed programme may vary considerably from one country to another, from one institution to another and from one level of study to another. Periods of study and credits are, however, not included in the

definition of qualification, as both terms imply smaller or larger components of a study programme, but not the complete programme itself. It should be noted that a component perceived in one Party as a component of a particular qualification may not be so perceived in all other Parties, as the composition of particular study programmes may vary from one country or higher education institution to another.

Higher education qualifications bear a wide variety of names at various levels and in various countries, such as "diploma", "degree", "title" and "certificate", or equivalent names in other languages. It should be noted that these examples do not constitute a full list of higher education qualifications, and that their ranking is arbitrary. The number of levels of higher education qualifications may vary between countries or between kinds of higher education. A higher education qualification may give access to a wide variety of further activities, within or outside of the higher education system, such as further study or gainful employment. Parties should provide information on their higher education qualifications, including the names of the qualifications in the original language(s) and the requirements for obtaining the qualifications.

Austria:

Higher education qualifications in the meaning of the provisions above are

- a) the bachelor, master, licentiate and doctoral degrees at universities; all other titles conferred upon completion of an university education;
- b) all kinds of proof of the general university entrance qualification according to art. 64 para. 1 UG or, respectively, art. 4 para. 5 FHG.

– Recognition

Recognition is a type of assessment of individual qualifications. However, while an assessment may be any kind of statement on the value of a foreign qualification, recognition refers to a formal statement by a competent recognition authority acknowledging the value of the qualification in question and indicating the consequences of this recognition for the holder of the qualification for which recognition is sought. For example, a qualification may be recognized for the purpose of further study at a given level (such as doctoral studies), for the use of a title or for the exercise of gainful employment, cf. Section VI.

In the terms of the Convention, "recognition" refers to transnational recognition, and not to recognition within any given country. The definition of recognition for employment purposes aims at recognition for the purpose of gainful employment activities in general and is not specifically directed towards recognition for the purpose of admission to regulated professions.

Austria:

For Austria, this means the validation (Nostrifizierung) according to art. 90 UG and art. 6 para. 6 and 7 FHG, or the equalization by the Federal Ministry of Education, Science and Research on the basis of bilateral agreements, and the recognition of a foreign diploma with regard to admission to master or doctoral programmes according to art. 64 para. 4 and 5 UG and art. 4 para. 4 FHG, or to post-gradual university courses according to art. 58 para. 1 UG.

- Requirements
 - A. General requirements
 - B. Specific requirements

The terms "general requirements" and "specific requirements" are interlinked and should be considered in context.

General requirements stipulate conditions that must be fulfilled by all candidates in a certain category, e.g., by all candidates for access to higher education or by all candidates for a doctoral degree. In the former case, the general requirement may be the completion of secondary education. In some countries, exceptions to this general requirement may exist, such as access on the basis of life experience, work experience or other non-traditional qualifications (cf. Article IV.8). In the latter, the general requirement may be the completion of doctoral level courses as well as the writing of a thesis based on independent research.

Specific requirements stipulate conditions that must be fulfilled by candidates for admission to specific types of higher education programmes. In most cases, specific requirements are in addition to the general requirements. There can be a wide variety of specific requirements. An example of such specific requirements may be competence in specific subject areas (such as mathematics, natural sciences or foreign languages), to be demonstrated in the secondary school qualification or in specific entrance examinations. Another example may be a certain grading average in the secondary school leaving qualification, above the passing minimum. General and specific requirements are dealt with in Sections IV and VI. It is noted that the principle of fair recognition applies to both general and specific requirements.

Austria:

Requirements in the meaning of the provisions above are

- a) the general university entrance qualification according to art. 64 UG and art. 4 para. 4 FHG;
- b) the special university entrance qualification according to art. 65 UG.

Section II

The Competence of Authorities

Article II.1

This Article describes the varying competence of central authorities of the Parties and individual higher education institutions in the matters covered by the present Convention and the obligations of the Parties according to the different categories of competence. The provisions of this Article are central to determining the obligations of the Parties under the subsequent Articles of this Convention. Paragraph 3 makes clear that the specific obligations of the Parties under the Articles of the Convention are governed by paragraphs 1 and 2.

The Article seeks to redress an imbalance in the obligations undertaken by the Parties in which authorities of the Parties have competence in recognition matters and those in which the competence belongs to higher education institutions. While recognizing the limited jurisdiction of State authorities in States in which decisions in recognition cases do not rest with the central authorities, this Article places upon these Parties an obligation to make sure that information on the provisions of the Convention is disseminated to all higher education institutions on their territories, and that these are encouraged to abide by the Convention. Attention is drawn to the important role of the ENICs in disseminating such information.

Austria:

For Austria, the variant of para. 2 applies. Therefore Austria declares itself bound, on the accession to the Convention, to the obligation to disseminate the wording of the Convention to the single universities, universities of applied sciences and Fachhochschule programmes for kind review and application. In those special cases in which the Federal Ministry of Education, Science and Culture itself is competent for decision on the basis of bilateral agreements, it is bound immediately to the provisions of the Convention. Attention is drawn in this context to the special role of the national information centres on the academic recognition (in Austria: NARIC AUSTRIA), which have primarily the task to give advice to the competent organs of universities, universities of applied sciences and Fachhochschule programme on foreign higher education qualifications, as a preliminary procedure preceding formal recognition procedures. NARIC AUSTRIA is publishing periodically, in printed or electronic version, recommendations on questions of academic recognition (see above all the [Homepage](#)).

Article II.2

The Article seeks to redress an imbalance in the obligations undertaken by the Parties in which authorities of the Parties have competence in recognition matters and those in which the competence belongs to higher education institutions. While recognizing the limited jurisdiction of State authorities in States in which decisions in recognition cases do not rest with central authorities, this Article

places upon these Parties an obligation to make sure that information on the provisions of the Convention is disseminated to all higher education institutions on their territories, and that these are encouraged to abide by the Convention. Attention is drawn to the important role of the ENICs in disseminating such information.

Austria:

See the communiqué BGBl. III No. 155/1999.

Article II.3

Modelled on ETS no. 32 European Convention on the Academic Recognition of University Qualifications (1959), Article 9 (a), this Article states the principle that the present Convention shall not affect any existing bilateral or multilateral conventions or agreements between Parties containing more favourable provisions than the present Convention, nor shall it preclude the future conclusion of such conventions or agreements between Parties. Such conventions or agreements may, for example, be found within the framework of the European Union, the Nordic Council of Ministers or the Commonwealth of Independent States.

Austria:

Thus, the Convention does not touch all of bilateral agreements and contracts which Austria has concluded with other countries, whether or not they are Contracting Parties to the Convention.

Section III

Basic Principles Related to the Assessment of Qualifications

Article III.1

This Article states the obligation of all Parties to provide for a fair assessment of all applications for the recognition of studies, qualifications, certificates, diplomas or degrees undertaken or earned in another Party. The assessment shall be given upon request by the individual concerned for the qualifications included in the request. Applicants may be required to provide documentary proof of their qualifications. The assessment may take the form of advice or of a formal decision on recognition by the competent authority. The assessment should be based on adequate expertise and transparent procedures and criteria, and it should be available at reasonable cost and within a reasonable time. The national information centres (cf. Section IX) could play a key role in providing such assessments.

The term "adequate access" implies that all Parties should make provisions for the assessment of qualifications for the various purposes covered by the Convention. The exact nature and organization of such provisions are to be established by each Party, but it follows from this Article that no Party may choose not to make any kind of provision for a specific kind of assessment (e.g. assessment in view of further studies or for employment purposes; it is kept in mind that as concerns the

latter, access to regulated professions is not covered by the present Convention). The scope and extent of these provisions should be defined by each Party and should be reasonable in view of the demand for assessment. In this context, it should be underlined that adequate access should not be taken to imply unlimited access. A Party may, for example, refuse to undertake further assessment of a qualification which has already been assessed for the same purpose within the same Party unless the applicant is able to support the application with substantial new information. Thus, a higher education institution may refuse to assess a foreign qualification for access to higher education if the qualification has already been assessed for access purposes by another institution belonging to the higher education system of the same Party.

The Article further states the obligation of Parties to provide for such an assessment on a non-discriminatory basis. Recognition cannot be denied for the sole reason that the qualification is a foreign and not a national one and circumstances unrelated to the academic merits of the qualifications may not be taken into consideration. For example, recognition of qualifications in history or a foreign language cannot be denied for the sole reason that the qualification was obtained in a certain country, or because of the holder's origin or beliefs. In this context, it should be underlined that the Convention applies to all persons whose qualifications have been obtained in one or more Parties; its application is not limited to the citizens or residents of these Parties.

It should be noted that a right to fair recognition is not a right to recognition at any price and under any circumstances. The concept of fairness applies to the procedure and criteria for recognition. A decision not to recognize a certain qualification fulfils the applicant's right to fair recognition if the procedure followed and the criteria applied have been fair.

Article III.2

This Article underlines the importance of instituting proper procedures for the handling of applications for the recognition of qualifications. These procedures apply to the assessment of qualifications, regardless of whether the qualifications are ultimately recognized or not. This provision is based on the principle that it is up to the authority evaluating the application to show that the applicant does not fulfil the requirements for recognition; it is not up to the applicant to prove that his or her qualifications meet the standards of the country in which recognition is sought.

An applicant should be informed of the procedure to be followed in handling his or her application. Procedures should be coherent in the sense that applications should not be handled very differently by the various higher education institutions within the same country. The ENIC Network could be asked to elaborate a code of good practice for the assessment of foreign qualifications, and individual national centres could play an important role in disseminating information on good practice to higher education institutions and other bodies assessing foreign qualifications in their respective countries.

Austria:

The procedure is determined by the General Rules for Administration Proceedings 1991 – AVG, BGBl. No. 51/1991, the UG as well as the FHG, each as amended.

Article III.3

This Article underlines the primary responsibility of the applicant to provide the necessary information for the assessment of his or her application. An integral part of this duty is the obligation to provide such information "in good faith", i.e., to provide correct and truthful information, and not to wilfully omit any relevant information or to provide false or misleading information.

The Article does, however, also underline the responsibility of education institutions to provide its former students, or the higher education institutions to which they apply for recognition of their qualifications, or the authorities of the countries in which they seek recognition, whichever may be the case, with relevant information for the assessment of an application for the recognition of qualifications earned at the institution. The term "education institution" encompasses higher education institutions as well as institutions conferring qualifications giving access to higher education. It is, however, noted that in some Parties information can be sent to another institution only at the request of the applicant.

Such information should be provided "within reasonable limits". On the one hand, this term implies that higher education institutions should provide the information requested as speedily as possible to help ensure that the application will be treated in a reasonable time (cf. Article III.5). On the other hand, it does imply that there are certain limits to the efforts required by higher education institutions in order to satisfy the requests. While the definitions of "reasonable limits" should be made explicit by the competent authorities, it may, as a general indication, be stated that the obligation to provide information may be considered reduced, or even non-existent, when the requests concern qualifications earned at the institution a very long time ago, when the information sought is readily available from other well known sources or when it is not accessible without an extensive search of archives.

Such information may include transcripts of the relevant parts of the records of the institution, information on courses taken and on the results obtained. This Article, read along with Article III.1, also underlines the obligation of the Parties to make it necessary for their education institutions to provide the information sought in such cases. For example, no Party, or education institution in a Party, may withhold such information for political, religious or other reasons.

Article III.4

This Article underlines the importance of making higher education systems, as well as the education giving access to higher education, clear to the academic community, and especially to academic

recognition experts and credentials evaluators in other Parties. This Article underlines the responsibility of the Parties for giving adequate information on their own education systems. The national information centres on recognition and mobility (cf. Sections IX and X) should play a key role in providing such information.

Article III.5

The concept of an applicant's right to receive a reply within a reasonable time is central to good practice and of particular importance for applicants who apply for recognition in order to pursue further studies or to use their qualifications as the basis for gainful occupation. If the application for recognition is refused, these applicants may have to undertake supplementary education in order to qualify. If the decision on their applications is significantly delayed, the applicants may be forced to undertake this education to avoid further delays, even though their applications may ultimately be decided in their favour. Parties are encouraged to make public, and inform applicants of, what they consider to be a "reasonable time limit" with respect to Articles III.4 and III.5 of this Convention. In this context, it is recalled that the European Union General Directives on professional recognition (Council Directives 89/48/EEC and 92/51/EEC) stipulate a deadline of four months for making a decision on professional recognition.

It is explicitly stated that the "reasonable time" is to be counted from the time the applicant has provided all necessary information for the case to be decided. It is, however, understood that the institution assessing the application should issue any request for additional information within a reasonable time from the day the application was received at the institution, and that requests for further information should be reasonable and not serve the sole purpose of avoiding or delaying a decision.

While a decision in the applicant's favour does not have to be justified, the reasons for a decision to the applicant's disadvantage should be stated. The provision that it is up to the authority evaluating the application to show that the applicant does not fulfil the requirements for recognition (cf. Article III.2) is closely linked to the applicant's right to appeal. Arrangements and procedures for such appeals are subject to the legislation in force in the Party concerned, even though the handling of the appeal should be subject to the same requirements of transparency, coherence and reliability as those imposed on the original assessment of the application. Information should be given on the ways in which an appeal could be made, and on the time limits for such an appeal. In cases in which an applicant may obtain recognition by taking further examinations or undertaking other measures, any such relevant information should be given.

Austria:

As for Austria, according to art. 73 para. 1 AVG, the reasonable time is defined with six months as a maximum; according to art. AVG an information on appeal is compulsory.

Section IV

Recognition of Qualifications Giving Access to Higher Education

Article IV.1

This Article concerns general requirements for access to higher education, as opposed to requirements for access only to certain types or programmes of higher education (cf. Article IV.2). The basic principle of the Convention is that qualifications giving the holder access to higher education in one Party should give the holder the same right in other Parties. It is recalled that access implies the assessment of applicants' qualifications with a view to determining whether they meet the general requirement for participation in higher education, but that their actual participation may be made dependent on the availability of places (admission). Access is therefore a first step towards pursuing studies in higher education. In some cases, access automatically gives admission, but in most cases admission is the second step towards pursuing studies in higher education, and not all applicants given access will be granted admission, cf. the definitions of access and admission under Section I.

A Party may, however, refuse to grant recognition if it can show that there is a substantial difference between its own general requirements for access and those of the Party in which the qualification in question was earned. Such differences may concern the contents of primary and secondary education, some examples of which are:

- * a substantial difference between a general education and a specialized technical education;
- * a difference in the length of study which substantially affects the curriculum contents;
- * the presence, absence or extent of specific subjects, such as prerequisite courses or non-academic subjects;
- * a substantial difference in focus, such as between a programme designed primarily for entrance to higher education and a programme designed primarily to prepare for the world of work.

The above examples show some relevant areas in which substantial differences may occur. It should be underlined, however, that not any difference with respect to one of these areas should be considered substantial.

As a general rule, in assessing whether there is a substantial difference between the two qualifications concerned, Parties and higher education institutions are, however, encouraged to consider, as far as possible, the merits of the individual qualifications in question without having recourse to an automatic comparison of the length of study required to obtain the qualification. It is the duty of the Party or institution wishing to refuse recognition to show that the differences in question are substantial.

The term "qualifications issued by other Parties" should be understood to include qualifications belonging to the education system of a Party but earned at a school or other institution located outside of the territory of that Party.

Austria:

The principle of recognition of the proof of the general university entrance qualification will further be valid, according to art. 64 UG or art. 4 para. 3 FHStG. The question is, in which case their can be spoken on „substantial differences“ in the educational programmes. The ascertainment of it is a matter of free appraisal of evidence, for which is it recommended to take into account especially the following criteria:

- * duration of formation (at least twelve years of schooling, as a rule);
- * contents of formation (preponderance of academic subjects);
- * classification (the kind of general university entrance qualification the recognition of which is applied for should exist also in Austria; counter-example: German Fachhochschulreife).

It seems, however, appropriate to compensate deficits in one of the criteria mentioned above by a surplus in one of the other criteria. E.g., it seems adequate to recognize secondary school leaving certificates which have been delivered after eleven years of schooling as equivalent, provided that the extent of prescribed achievements per year is above the Austrian one. Secondary school leaving certificates, however, which have been delivered after ten years of schooling should not be recognized as equivalent without further deliberation..

See also the more detailed recommendation of NARIC AUSTRIA on the question of „substantial differences“ („Lissabon-Empfehlung Wesentliche Unterschiede“) [Link: 2.4.13.40E]).

Article IV.2

The purpose of Article IV.2 is to clarify that those Parties which do not have a system for recognition should provide as an alternative a system of assessment. It is not intended that a Party which has a recognition system in place should be able to decide in any particular case only to provide an assessment.

Austria:

In many cases it is required and makes sense to offer a legally non binding evaluation of qualifications giving access to higher education by NARIC AUSTRIA. This possibility is in any case open for all applicants due to § 6 of the Recognition and Assessment Act – AuBG, BGBl. I No. 55/2016, in conjunction with the Lisbon Recognition Convention.

Article IV.3

This Article concerns qualifications giving access only to certain kinds of programmes of higher education, such as technical education or nursing, or only to certain kinds of institutions, or to non-university higher education in general, but not to universities. One example of the latter case would

be the Dutch HAVO (*Hoger Algemeen Vormend Onderwijs*) Diploma, giving access to higher education programmes in the Dutch *hogescholen*.

Austria:

Certificates which entitle in another delivering country to studies at a higher education institution which does not belong to the university sector, but not to studies at universities (e.g. the German Fachhochschulreife) do not have a correspondence in Austria and can therefore not be recognized as general university entrance qualification, even not for admission to Fachhochschule programmes. In the latter case, however, admission can possibly be granted on the basis of a relevant professional qualification (art. 4 para. 2 FHG).

Article IV.4

This Article concerns cases in which, in addition to the general requirements for access to higher education covered in Articles IV.1 and IV.2, specific requirements are stipulated for access to particular courses of study. Examples of such specific requirements are the following:

- a) a particular course of study is open only to holders of a diploma conferred in the natural sciences or – as the case may be – the classical sector of upper secondary education;
- b) knowledge of a particular subject such as an ancient or modern language, physics, chemistry, mathematics, philosophy;
- c) a period of practical training;
- d) any other supplementary certificate which may be required in addition to the school diploma.

Specific requirements should only be laid down when they are absolutely necessary from the educational point of view. In no case must they serve as a pretext for keeping out students with qualifications issued in one of the Parties. As a general rule, applicants with qualifications issued in one of the Parties may be required to fulfil equivalent conditions as those required of holders of similar qualifications of the Party concerned wishing to undertake the same studies. The Parties and their higher education institutions should, however, be generous in deciding whether students with qualifications issued in one of the Parties meet such requirements.

Austria:

Here, the special university entrance qualification according to art. 65 UG is concerned. Austria did, due to its legal situation, not make use of the variant to enable holders of foreign secondary school leaving certificates to produce additional achievements for the special university entrance qualification in Austria (excepted are only secondary school leaving certificates of persons according to the Decree on Groups of Persons 2018 – PersGV 2018, BGBl. II No. 63/2019, as amended). Austria refers rather to the variant of reviewing if applicants with qualifications received in other Contracting Countries fulfil corresponding requirements. Schools which do not belong to the educational system of the country where they are located will be treated according to the prerequisites of the

Contracting Party to whose educational system they belong (e.g. German Foreign Schools). In doing so, it has to be taken into account that some of such schools are recognized fully in two directions, namely for the country where they are located, as well as for the Contracting Party to whose educational system they belong. In that case the applicant can choose according to which of the both study systems he or she gives proof of the prerequisites for the special university entrance qualification.

Article IV.5

This Article covers cases in which the general requirement for access to higher education in a Party is constituted by a secondary school leaving certificate and an additional qualifying examination, organized and standardized at a national or central level. Specific examinations intended to verify whether an applicants fulfils specific requirements for access to particular courses of study are covered by Article IV.7.

In considering whether to apply the Article, Parties should distinguish between systems in which the aim of the additional examination is to provide an additional mechanism for making a selection between highly qualified candidates, and systems in which the aim of the examination is to provide an additional mechanism for deciding whether candidates do in fact satisfy the access requirements to higher education. In applying the Article, Parties should have adequate reason to suppose that the examination fulfils the latter function.

If an additional qualifying examination is required for general access to higher education, as explained above, in a Party, the other Parties may demand that applicants from this Party fulfil this requirement before access is granted. Alternatively, the Parties may offer applicants an opportunity to satisfy the additional requirements within the educational system of the State in which the applicant has applied for access, for example, by offering special examinations of a similar nature and/or by offering preparatory courses. The Article is applicable only to applicants holding qualifications from Parties in which the additional qualifying examinations are an essential part of the full requirements for access to higher education. It should be applied with care and in good faith, and in no case should it be applied for the sole purpose of limiting the number of applicants from a given country.

Austria:

As for Austria, this article covers at present the secondary school leaving certificates of Greek (old system) and Turkish secondary schools. The reason for that is that in these school systems there is not foreseen a general final examination in the sense of an Austrian Reifeprüfung, but that the applicants receive a general university entrance qualification only upon successful passing the higher education admission examination. See the communiqué BGBl. III No. 155/1999.

Article IV.6

This Article acknowledges the fact that selective admission increasingly seems to be the norm in a large number of countries in the European Region. Admission to a higher education institution, or to certain programmes at a higher education institution, may be limited because of financial considerations, for reasons of capacity, to limit the number of practitioners of certain professions or for other reasons without infringing on an individual's right to recognition of his or her qualifications giving access to higher education in general or to a specific higher education programme. The system set up to administer selective admission may vary from one country to another. Admission systems may operate at national, sub-national, institutional and/or other levels. Various kinds of selective admission systems, such as numerus clausus, are frequently used.

The implementation of a selective admission system should, however, be non-discriminatory. Specifically, holders of qualifications issued in another Party should not be excluded only because of the origin of their qualifications. The evaluation of qualifications issued in another Party should be carried out according to the principles of fairness and non-discrimination described in Section III.

It is nonetheless noted that in certain limited cases, citizenship or residency may be a decisive criterion for admission to certain types of higher education, such as to military academies or to higher education the exclusive purpose of which is to prepare the students for certain other functions limited to citizens of the country concerned. In some countries, this could be the case for courses of study preparing for careers in the civil service, or in certain branches of the civil service, if citizenship is a precondition for obtaining a post in the civil service, or in the branch(es) of the civil service for which the courses of study prepare. In some countries, access to certain very costly study programmes, such as medicin, may also be subject to citizenship and/or residency requirements.

Austria:

At universities, the senate can, according to art. 63 para. 4 UG, ascertain that for certain fields of study there would exist unacceptable study conditions, in case that all applicants who can proof the general and the special university entrance qualification would be admitted. In such cases foreign citizens who are neither citizens of an EU/EEA country or of Switzerland, nor are covered by the Decree on Groups of Persons 2018 – PersGV 2018, BGBl. II No. 63/2019, as amended, can be excluded from the admission to this given field of study. The ascertainment on unacceptable study conditions have to be done by each university or faculty within the scope of its autonomy, and can be changed in any case that the conditions for it have changed.

For admission to university of applied sciences programmes there exists a numerus clausus, as a rule.

Article IV.7

This Article states an institution's right to deny admission to otherwise qualified applicants who cannot demonstrate sufficient competence in the language(s) of instruction of the institution concerned. These need not be the official language(s) of the country in which the institution is located. For example, if an applicant seeks admission to a study programme given entirely in English at an institution located in a country with another official language, a knowledge of English rather than the local language may be required. Another example would be an applicant seeking admission to a Catalan university, in which, depending on the study programme, a knowledge of Catalan rather than – or in addition to – Spanish (Castilian) may be required. The Article would also give an institution the right to require a reading knowledge of a given language other than the language of instruction if such knowledge is required to fulfil the reading requirements for the study programme in question. This Article does not interfere with the right of an institution to require a certain starting level of students of foreign languages.

Austria:

As to Austria, the knowledge of the German language as an admission requirement is provided for in art. 64 para. 10 UG or art. 4 para. 7 FHG. These provisions foresee specific restrictions of this requirement for certain cases.

Article IV.8

This Article states the principle that when a Party accepts non-traditional qualifications as a basis for access to higher education, it should consider applicants having earned their non-traditional qualifications in other Parties in a similar way to applicants having earned their non-traditional qualifications in the Party in which recognition is sought.

This Article is in no way binding on Parties in which there is no provision giving access to higher education on the basis of non-traditional qualifications.

The term "non-traditional qualifications" is taken to mean qualifications other than secondary school leaving qualifications traditionally accepted as a basis for access to higher education (supplemented by any general or subject specific entrance examinations or requirements), such as a specified work or life experience. Non-traditional qualifications may give general access to higher education or access only to specific types of higher education.

Austria:

As to Austria, this provision covers the university entrance qualification examination (*Studienberechtigungsprüfung*) (§ 64a UG and § 5 FHG), die Berufsreifeprüfung (Act on the Berufsreifeprüfung, BGBl. I no. 68/1997; art. 64 para. 1 subparagraph. 1 UG; art. 4 para. 5 subparagraph. 1 FHG), and the relevant professional qualification (art. 4 para. 2 FHG).

Article IV.9

This Article reflects the increase in the number of education institutions operating outside the education system of the country in which they are located.

Given the wide diversity in:

- a) the status and quality of these institutions and
- b) the extent to which their programmes are subject to institutional assessment,

Parties may feel the need to exclude some such institutions from the scope of this Convention. While this is a valid possibility, Parties are called upon to resort to Article IV.9 with restraint and in accordance with the basic principles of this Convention.

Section V

Recognition of Periods of Study

Article V.1

This Article states the basic principle that periods of study undertaken abroad shall be recognized unless a substantial difference can be shown between the period of study undertaken abroad and the part of the higher education programme which they would replace. It is the duty of the Party or institution wishing to withhold recognition to show that the differences in question are substantial. This Article makes no distinction between participants in organized mobility programmes and "free movers".

It is realized that it may be more difficult for a competent recognition authority to show the existence of substantial differences in the case of the recognition of periods of study than for the recognition of access qualifications (Section IV) or higher education qualifications (Section VI). There is therefore a need for guidelines on this point; these could be proposed by the ENIC Network, taking into account the experience of higher education institutions. As an example, while account may be taken of quality and major differences in programme content in the definition of "substantial differences", Parties should show sufficient flexibility in their definitions. Attention is specifically drawn to the fact that a narrow definition of the concept of "substantial differences" with regard to course content may easily discourage academic mobility.

Austria:

In Austria, recognition does legally not refer to periods of study, but only the examinations (art. 78 UG, in the universities of applied sciences sector analogously, according to the relevant rules of examinations and art. 12 FHG). Article V.1 shall be interpreted for the application in Austria in this way. Those differences should be classified as substantial that are based on another orientation of the higher education institution or institution of post-secondary education at which the examination has been taken, and the receiving institution, or a substantially differing orientation of the examination subjects. An important role as a remedy for the assessment of workloads play the ECTS credit

points, which are since 1 July 2003 compulsory for all curricula (art. 54 para. 2 UG; art. 3 para. 2 subpara. 2 FHG).

Article V.2

The purpose of Article V.2 is to clarify that those Parties which do not have a system for recognition should provide as an alternative a system of assessment. It is not intended that a Party, which has a recognition system in place, should be able to decide in any particular case only to provide an assessment.

Austria:

In many cases it is required and makes sense to offer a legally non binding evaluation of higher education qualifications – in the present context especially examination certificates and interim qualifications – by NARIC AUSTRIA. This possibility is in any case open for all applicants, due to § 6 of the Recognition and Assessment Act – AuBG, BGBI. I No. 55/2016, in conjunction with the Lisbon Recognition Convention.

Article V.3

This Article outlines some conditions which may facilitate the recognition of periods of study abroad, especially in the context of organized mobility programmes. It should be underlined that while Parties may make the recognition of periods of study conditional on the fulfilment of these conditions, Parties may also choose not to consider these as necessary conditions for the recognition of periods of study.

This Article underlines that previous agreements between the institution at which the qualification has been earned and that at which recognition is sought may greatly facilitate recognition. Such previous agreements will often be agreements between two or more institutions, made not only for individual students, but also in the context of a joint programme concerning a number of students, and covering a period of several years. Such agreements may be bilateral agreements, agreements between a number of higher education institutions or agreements within organized exchange programmes such as SOCRATES (ERASMUS), TEMPUS, NORDPLUS or CEEPUS, or within the framework of a general agreement of the recognition of partial examinations, such as the "Rules governing the validity of Nordic intermediate examinations" adopted by the Nordic Council of Ministers (*Nordiska ministerrådets beslut om nordisk tentamensgiltighet*). They may also include the use of a system of credit transfer, such as the ECTS (European Credit Transfer System) scheme of the European Union (3).

The Article also underlines the importance for the applicant to provide documentary proof of the successful completion of the period of study for which recognition is sought, and the importance for higher education institutions to issue adequate documentation to their foreign students who are undertaking periods of study at the institution.

Austria:

This article is important for the exchange in the framework of programmes, e.g. SOCRATES or CEE-PUS, but also for a reasonable design of the course of study of so-called “free movers”. As to Austria, this is a special with regard to art. 78 para. 5 UG. Upon fulfilment of the requirements, recognition has to take place in a compulsory way. Indeed, art. 78 para. 1 UG is even more favourable for examinations which have successfully been passed at institutions of post-secondary education in the EEA, as it states a global recognition if the ECTS credit points in relevant subjects are equal to, or differ only to a minor extent from those prescribed in Austria. – The compulsory conversion of the curricula in ECTS credit points is provided for in art. 54 para. 2 UG and art. 3 para. 2 subpara. 2 FHG.

Section VI

Recognition of Higher Education Qualifications

Article VI.1

While acknowledging that recognition decisions may entail other factors than the knowledge and skills certified by the higher education qualification, this Article states the basic principle that Parties should recognize higher education qualifications earned in the higher education system of any other Party unless a substantial difference can be shown between the qualification for which recognition is sought and the corresponding qualification in the country in which recognition is sought. It is underlined that the difference must be both substantial and relevant as defined by the competent recognition authority. Recognition cannot be withheld for reasons immaterial to the qualification or the purpose for which recognition is sought. It is the responsibility of the Party or higher education institution wishing to refuse recognition to show that the difference is substantial.

A distinction should be made between the knowledge and skills certified by the higher education qualification and other requirements for recognition for employment purposes based on that qualification. By virtue of the present Article, qualifications issued in other Parties should be recognized, in so far as they fulfil the requirements stipulated in this Article, as a precondition for recognition for employment purposes in so far as the knowledge and skills certified by the higher education qualification are concerned (cf. also Article VI.2). In addition, and especially in the case of regulated professions, the competent bodies of the Parties may stipulate other requirements for the recognition of final higher education qualifications for employment purposes, such as requirements regarding practice periods as additional or posterior to the higher education programmes or sufficient competence in the official or regional language(s) of the country in which recognition is sought. Such additional requirements for the recognition of final higher education qualifications for employment purposes are not covered by the present Convention nor does this Article in any way affect national law and regulations on the exercise of gainful employment. If a considerable part of an applicant's studies for the qualification in question have been undertaken at an institution not recognized as belonging to the higher education system of a Party, the Parties may consider this as constituting a substantial difference in the terms of this Article.

The competent authorities for the recognition of final higher education qualifications will in most cases be higher education institutions, but may also be other bodies, often set up for this specific purpose. This is the case with, for example, the German *Staatsprüfung* in medicine, dentistry, pharmacy, law and teacher training. To ensure the specific public interest in these professions, German Ministries have prescribed the major examination subjects for these higher education programmes within Germany. However, the responsibility for the quality of teaching and research remains entirely with the university, and the State examination boards are composed mainly of academic staff of the higher education institution teaching the particular course, so that *Staatsprüfungen* are considered by universities as being of the same academic level as degrees proper and are accepted equally as qualifying for admission to doctoral studies. In most central and eastern European countries, first examinations also have a double function. They give admission to a profession, and they are entrance qualifications for doctoral studies.

Austria:

This article covers recognitions in the meaning of „recognition“ in article I, i.e. the recognition of final diplomas. As to Austria, the validation (*Nostrifizierung*) according to art. 90 UG and art. 6 para. 6 and 7 FHG, or the equalization by the Federal Ministry of Education, Science and Research on the basis of bilateral agreements, as well as the recognition of a foreign diploma with regard to the admission to master or doctoral programmes according to art. 64 para. 4 and 5 UG, or to post-graduate university courses according to art. 56 UG and art. 9 FHG are concerned.

The following differences should in particular be considered as substantial:

- * a deviation from the contents of formation (standard: correspondence of less than 75% with regard to the prescribed subjects),
- * a substantial deviation from the duration of formation, or
- * a substantially other orientation of the study programme.

Article VI.2

The purpose of Article VI.2 is to clarify that those Parties which do not have a system for recognition should provide as an alternative a system of assessment. It is not intended that a Party which has a recognition system in place should be able to decide in any particular case only to provide an assessment.

Austria:

In many cases it is required and makes sense to offer a legally non binding evaluation of higher education qualifications – in the present context especially final diplomas – by NARIC AUSTRIA. This possibility is in any case open for all applicants, due to § 6 of the Recognition and Assessment Act – AuBG, BGBl. I No. 55/2016, in conjunction with the Lisbon Recognition Convention, and is of special importance for the valence of final diplomas for the non-regulated sector.

Article VI.3

This Article outlines the possible consequences of the recognition of higher education qualifications issued in other Parties. Recognition may be considered with respect to one or both of the stated purposes:

- a) concerns the right to seek access to any further higher education studies and/or specific courses of study or to examinations in any Party. The provision explicitly includes the right of a qualified applicant with qualifications issued in another Party to seek access to preparations qualifying for the doctoral degree;
- b) concerns the right of holders of qualifications issued in another Party to use their foreign titles. The competent authorities of the Parties may grant the right to use the title in the exact form in which it was awarded in the Party concerned or in any other form. They may alternatively grant the right to use the corresponding title of the country in which recognition is sought. The Convention does not restrict the competent authorities of the Parties in this area. However, the competent recognition authorities of many Parties may wish to exclude unwarranted use of translations of titles and degrees.

In addition, this Article concerns the recognition, for employment purposes, of the knowledge and skills certified by a higher education qualification issued in another Party. The recognition of other components of a qualification, such as practice periods additional or posterior to the higher education programmes, are not covered by this Article, nor does this Article in any way affect national laws and regulations on the exercise of professional activities or gainful employment, as the case may be.

Austria:

An important consequence is the admission to further studies (master and doctoral programmes or post-gradual university courses). The use of academic degrees is anyhow provided for in art. 88 UG. Indirect effects of a validation (Nostrifizierung) lie with the access to the professional area (either regulated activities or certain activities under private contract). This is a consequence of the so-called „effectus civilis“. Wherever a validation is in this sense essentially necessary (art. 90 para. 1 UG, art. 5 para. 6 and 7 FHG) it can be applied for.

Article VI.4

This article covers the same topics as article VI.3, but in cases where an assessment, rather than a recognition decision is applicable. As a consequence, the formulation of this Article is in terms of advice, and not in terms of the consequences of the decision.

Austria:

Also in this respect the activity of ENIC NARIC AUSTRIA is of importance (cf. comments to art. VI.2).

Article VI.5

This article covers the same topics as article IV.9, but with reference to higher education.

Section VII

Recognition of Qualifications Held by Refugees, Displaced Persons and Persons in a Refugee-like Situation

Article VII

The problem of refugees, displaced persons and persons in a refugee-like situation is becoming increasingly urgent in Europe. Many refugees, displaced persons and persons in a refugee-like situation do not possess documentary evidence of their qualifications because they have had to leave their personal belongings and papers behind, because it is impossible to communicate with the institution(s) where their qualifications were earned, because the relevant files and archives have been destroyed in acts of war or violence and/or because the relevant information is withheld for political or for other reasons. The Article commits the Parties to showing flexibility in the recognition of qualifications held by refugees, displaced persons and persons in a refugee-like situation, within the limits of each Party's system and in conformity with each Party's constitutional, legal and regulatory provisions. Such a measure could be a provisional recognition of the qualifications claimed on the basis of a sworn statement and, in the case of recognition of qualifications for the purpose of further study, the provision that a place of study may be revoked if the applicant has provided false information, or the provision of special examinations to allow refugees, displaced persons and persons in a refugee-like situation to prove the qualifications they claim to have acquired.

Austria:

1. Wherever single documents cannot be shown without a tall order or huge difficulties, dispensation from showing them can be granted, provided that the overall context of all other pieces of evidence can lead to the assumption that there has indeed been received a certain higher education qualification abroad (art. 60 para. 3 UG). The present Convention is in any case a special provision to it and therefore carries on for the scope of its application the former legal situation. It is important that these documents with regard to their contents are considered sufficient for the decision. There must at least exist a very high probability for the assumption that the respective higher education programme has indeed been carried out and the examinations have indeed been successfully. The responsibility for the final decision lies with the relevant competent authority in the framework of its free appraisal of evidence.
2. Persons who are entitled to residence in the Federal Territory on the basis of the Asylum Act 2005 – AsylG 2005, BGBl. I No. 100/2005,, in the present version are covered by art. 1 para. 7 of the Decree on Groups of Persons 2018 – PersGV 2018, BGBl. II No. 63/2019, in the present version, and enjoy the special treatment derived from it.

3. For cases of surreptitious obtainment, art. 74, 89 and 90 para. 4 UG provide for respective sanctions (annulment of judgements, revocation of academic degrees).

Section VIII

Information on the Assessment of Higher Education Institutions and Programmes

Article VIII.1

The Convention obliges Parties to make available all information on the recognition of institutions and programmes as it exists in the Party in question. It does not oblige Parties to give information on matters in which they are not competent, nor does it oblige them to make ranking lists of higher education institutions.

The diversification of higher education has lead to a wide range of higher education institutions and programmes in many countries, including those privately run. This development has led to a wider range in higher education qualifications, also in the variety of quality of qualifications of the same level, but earned at different institutions or within different programmes. A knowledge of the quality of a given institution or programme is essential to determine whether a qualification issued by that institution, or on the basis of that programme, should be recognized. This Article puts an obligation on the Parties to provide adequate information on any higher education institution belonging to their higher education system, and on the programmes operated by these institutions (cf. the definitions of "higher education", "higher education institution" and "higher education programme", Section I), in order to give other Parties the necessary background knowledge to decide whether any given qualification should be recognized.

It should be underlined that the issue addressed in this Article does not concern the public or private ownership or operation of higher education institutions and programmes, but rather the information needed to asses the qualifications issued by these institutions, or on the basis of these programmes. It is, however, recognized that this issue may be particularly important with regard to qualifications issued by private institutions, when there is no implicit or explicit assessment of the institution through the procedure of public funding. When no information is made available by the country to whose system the higher education institution belongs, or claims to belong, a country in which recognition is sought may choose to withhold recognition of the qualifications earned at the institution, or on the basis of the programme, in question. A lack of information on these institutions and programmes may, therefore, be of disadvantage to students attending – or having attended – serious private institutions and programmes.

This Article distinguishes between Parties which have established a system of formal assessment of higher education institutions and programmes and those that have not. The former should provide information on the methods and results of this assessment, and of the standards of quality specific to each type of higher education institution and programme. The latter, while lacking a formal system and perhaps formal criteria for the assessment of institutions and programmes, should none-

theless provide information on the recognition of the various qualifications earned at any institution, or on the basis of any programme, belonging to their higher education system. In many cases, non-State bodies would provide the information, but the State authorities would be responsible for setting up the information framework.

The Convention, in both its operational Articles and in the definitions in Section I, refer to institutions and programmes belonging to the higher education system of a Party rather than to institutions and programmes located or operating on the territory of a Party. This shift of emphasis in relation to the previous Conventions has been made to take account of the recent but widespread phenomenon of transnational operations of higher education institutions, of which franchising is one example.

Austria:

As to Austria, above all, information according to the Decree on University and Higher Education Statistics and Educational Documentation – UHSBV, BGBl. II No. 216/2019, is covered.

Article VIII.2

In interpreting this Article, reference should be made to the definitions of "higher education", "higher education institution" and "higher education programme" in Section I.

This Article underlines the importance of providing adequate information on the higher education system of a Party. It enumerates some important kinds of information in this respect. The information may be provided by State authorities or other bodies. Attention is particularly drawn to the important function of the national information centres (cf. Sections IX and X) in this area. The ENIC Network could be mandated to propose a format for providing the information outlined in Section VIII.

A distinction is made between higher education institutions and higher education programmes, as a higher education institution can have several types of programmes and access criteria, and the kinds of qualifications earned may vary between programmes.

The obligation of Parties to provide information on education institutions located outside the territory which the Party considers as belonging to its education system extends to institutions issuing qualifications giving access to higher education.

The obligation to "publish" the information covered by this Article may be satisfied through a variety of measures, including electronic publishing and the publishing of material to restricted target groups, such as the national information centres of other Parties.

Austria:

For centralized information the Federal Ministry of Education, Science and Research is responsible, for centralized information (especially the curricula) the respective universities and universities of applied sciences. What is essential in the sense of a regulated information duty is that all data exist in a documented form and are retrievable without problems. – „Publication“ in the present context must not be read as a legal term. There come into question rather many kinds of publication, e.g. by way of the relevant homepage in the internet. See the communiqué BGBI. III No. 155/1999.

Section IX.

Information on Recognition Matters

Article IX.1

Transparent descriptions of the qualifications earned is of vital importance to facilitating the recognition of foreign higher education qualifications, as well as qualifications giving access to higher education. One example of a transparent system for the description of qualifications would be a credit system. Any credit system and credit transfer system set up by a Party or a higher education institution should, as far as possible, be compatible with those of other Parties and their higher education institutions. Attention is drawn to the ECTS system (European Credit Transfer System) of the European Union (4).

Austria:

The compulsory conversion of the curricula in ECTS credit points is provided for in art. 54 para. 2 UG and art. 3 para. 2 subpara. 2 FHG.

Article IX.2

This Article commits the Parties to establishing and maintaining a national information centre and describes the functions of the national information centres at the national level. Their function at the international level is described in Section X Implementation Mechanisms. The national information centres described in this Article constitute the ENIC Network.

Each Party shall, if it has not already done so at the time of entry into force of the Convention, establish or appoint a National Information Centre and notify one of the depositaries of the Convention of its establishment or appointment. As a rule, each Party shall have only one such Centre. It is, however, recognized that in certain cases, national policies and structures make it desirable for a State to appoint more than one centre, such as:

- a) in a federal structure of government, e.g., representing different language communities within the same country;
- b) when responsibility for providing information on recognition and mobility matters has been entrusted to different specialized centres;

c) when responsibility for providing information on various types of higher education programmes and qualifications, such as university and non-university higher education, has been entrusted to different specialized centres.

In organizational and physical terms, the National Information Centre may be located in a Ministry, in an independent or semi-independent agency, or at a higher education institution. Regardless of the organizational model chosen, the centre should have national functions and responsibilities (except in a very few cases, e.g., when separate centres are established for different language communities).

The National Information Centre shall, in accordance with national laws and regulations, give advice and information on recognition matters and assessment of qualifications, to both individuals and institutions, including:

- a) students;
- b) higher education institutions;
- c) staff members at higher education institutions;
- d) Ministries responsible for higher education;
- e) parents;
- f) employers;
- g) national information centres of other Parties and other international partner institutions;
- h) any other interested parties.

In some countries, according to national legislation, the national information centre may also make decisions in recognition cases.

In order to fulfil a Party's obligation under the Convention, it is important that the national information centre be given adequate resources by which to fulfil its functions. These resources include an adequate number of competent staff, technical facilities and a sufficient budget to allow adequate contacts with higher education institutions in the country in which the centre is located as well as with national information centres of other Parties.

Austria:

For the first time there is provided for a legal basis for the existence of a national information centre. On behalf of Austria, die unit VII/11 of the Federal Ministry of Education, Science and Culture is in charge of this function (ENIC NARIC AUSTRIA), and that in the framework of Council of Europe and UNESCO (functionally as ENIC) as well as in the framework of EU (functionally as NARIC). The foundation of such centres happened 1982 upon initiative of the former Standing Conference for University Problems (CC-PU) of the Council of Europe. Before the Convention, the relevant centre has been nominated by diplomatic note. See the communiqué BGBl. III No. 155/1999.

Article IX.3

The UNESCO/Council of Europe Diploma Supplement is generally considered a useful tool for promoting the transparency of higher education qualifications, and measures have been taken to encourage the use of this Diploma Supplement on a larger scale.

The Diploma Supplement explains the contents and form of the qualifications delivered by higher education institutions. It does not replace or modify those qualifications. Rather, the Diploma Supplement seeks to explain the qualifications in an internationally understandable form. The Diploma Supplement is therefore useful to higher education institutions in their relations with partner institutions in other countries, e.g., in the framework of student exchanges. The ENIC Network should periodically review the Diploma Supplement with a view to updating its contents and facilitating its use.

The inclusion of the Diploma Supplement as one of the mechanisms for the implementation of the Convention underlines its importance and commits the Parties to intensifying their efforts to promote its widespread use.

For the authentication of periods of study, the use of transcripts of records is recommended.

Austria:

The compulsory use of the Diploma Supplement is provided for in art. 87 para. 8 UG and art. 4 para. 9 FHG. Further information, above all the forms according to the European specimen, are provided for by the Decree on University and Higher Education Statistics and Educational Documentation – UHSBV, BGBl. II No. 216/2019. See also the own [website](#).

Section X.

Implementation Mechanisms

Article X.1

This Article enumerates the mechanisms to be set up with a view to assisting the Parties in their implementation of the Convention, as proposed in the Feasibility Study, chapter 16.

Article X.2

This Article establishes the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, modelled on the Regional Committee set up by virtue of the UNESCO Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region. The Committee is made up of representatives of the Parties, and is distinct from the Network of national information centres set up under Article X.3. It should, however, be noted that Parties may nominate representatives of their national information centres as their representatives on the Committee, as has largely been the practice with respect to the UNESCO Regional Committee.

The main functions of the Committee are described, while it is envisaged that its Rules of Procedures be adopted separately. The Rules of Procedure will define the composition of the Committee, the term and general powers of the President, the representatives and observers, the quorum, the voting procedures, etc. They will be modelled on the Rules of Procedure of the UNESCO Regional Committee for Europe (5).

Recommendations, declarations and models of good practice are important tools for the implementation of the Convention. They offer guidance on specific issues (e.g., the role of national information centres, the recognition of secondary school leaving qualifications or recognition procedures) and complement the provisions of the Convention. These texts are not binding on the Parties, but rather provide voluntary solutions to common problems in that they generally express the considered view of all, or at least the majority, of the Parties on the issues which they address. The Article places upon the Parties the obligation to disseminate recommendations, declarations and models of good practice adopted in accordance with the present Article to the competent authorities, and to encourage their application.

Article X.3

The ENIC Network was established in June 1994 through the merger of the previous separate Networks of the two Organizations – the NEIC Network of the Council of Europe and the NIB Network of UNESCO. The ENIC Network was set up by decision of the UNESCO Regional Committee for Europe and by the Committee of Ministers of the Council of Europe. The Network is of crucial importance to the practical implementation of the Convention, and it has therefore been deemed desirable to include it among the implementation mechanisms explicitly mentioned in the Convention.

The Article describes the composition and the main functions of the Network when acting for the purposes of the Convention. Other activities of the Network are not covered by the Convention. The Article also describes the nomination of the members of the Network. The Parties should appoint as member(s) of the Network the National Information Centres established or maintained under Article IX.2. The national functions of the information centres, as well as the obligation of the Parties to take all feasible measures required to enable the centres to fulfil their tasks, are included in Section IX.

The terms of reference of the Network shall be adopted jointly by the competent bodies of the Council of Europe and UNESCO. The terms of reference are adopted for a certain time period and reviewed periodically by the competent bodies of the two Organizations.

Section XI.

Final Clauses

Article XI.1

This Article states that any State which is a member State of the Council of Europe, a member of the UNESCO Europe Region, or any signatory, Contracting State or a party to the European Cultural Convention of the Council of Europe and/or the UNESCO Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region, and which has been invited to the Diplomatic Conference entrusted with the adoption of the Convention, may become a Party to this Convention. Both of these conditions must be fulfilled.

The Holy See is a party to the Conventions mentioned in Article XI.1.1.c, and is therefore covered by this provision. However, in Article XI.1.2, the Holy See is referred to explicitly at the request of the delegation of the Holy See, which felt that, because of its unique character, it should not be amalgamated with the States.

Article XI.2

This Article stipulates how the present Convention shall enter into force. It follows standard practice for Council of Europe and UNESCO Conventions.

Austria:

1. Entering into force for Austria by 1 April 1999.
2. Other member countries as of 1 April 1999: Azerbaijan, Estonia, Kazakhstan, Lithuania, Romania, Switzerland.
3. The up-to-date state of accessions and ratifications can be found in the overview of the [Council of Europe](#).

Article XI.3

This Article regulates accession to the Convention by States which do not have an automatic right to become a Party to it under Article XI.1. Accession under the provisions of Article XI.3 will only be possible when the Convention has entered into force under the provisions of Article XI.2. Thereafter, any such accession shall require a two-thirds majority of the Parties entitled to be represented, in accordance with Article X.2, on the Committee for the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, as specified in Article XI.3.2. In deciding whether to admit new States under the provisions of this Article, the Committee may want to consider whether sufficient and accurate information is available on the education system of the States applying for accession. This procedure replaces the normal procedures in force for Conventions adopted within the respective frameworks of the Council of Europe and UNESCO. Requests for accession and their dissemination to the Parties shall follow the rules specified in the present Article.

Article XI.3.3 contains specific provisions concerning the accession to the Convention by the European Community.

Article XI.4

This Article defines the relationship between this Convention and previous Council of Europe and UNESCO Conventions on the recognition of higher education qualifications in the European region.

The Article underlines the function of this Convention as a replacement Convention, in that any Party to the present Convention, ceases to apply any of the previous Council of Europe and UNESCO Conventions mentioned in this Article to which it is a party, but only with regard to other Parties to the present Convention. Parties shall still be bound by the previous Conventions to which they are a party with regard to other parties to those Conventions, but not to the present Convention. The instances of concrete application of the previous Conventions will thus be reduced as the number of Parties to the present Convention increases. It is hoped that the present Convention will eventually replace the previous Conventions.

In addition, the Parties to the present Convention undertake to abstain from becoming parties to the previous Conventions. An exception is made with regard to the International Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean. The Parties to the present Convention may accede to the Mediterranean Convention with a view to their relations with Mediterranean and Arab States not Party to the present Convention. As stated in Article XI.4.1.a, the Parties to both the present Convention and to the Mediterranean Convention would apply the present Convention in their relations with other States party to both Conventions.

Austria:

It is unavoidable because of the situation of international law that a parallel existence of legal instruments will be the case within the next time: The Convention can be implemented only with regard to those countries for which it has likewise entered into force. In the relation to other countries, which are Contracting Parties to preceding Conventions (especially the European Convention on the Equivalence of Diplomas leading to Admission to Universities), those preceding Conventions have to apply further for a transitional period.

Article XI.5

This Article states defines mechanisms for the applicability of the Convention to certain territories of the Contracting Parties.

Article XI.6

This Article states that any Party may, at any time, denounce the present Convention, and specifies the procedure for such a denunciation.

As regards international law concerning the termination or suspension of the operation of an international treaty as a consequence of a violation by a Party of a provision essential to the accomplishment of the object or purpose of the treaty, reference may be made to Article 60 of the Vienna Convention on the Law of Treaties.

Article XI.7

Reservations to the provisions of this Convention are allowed only as specified in Article XI.7.1. In general terms, no reservations are allowed with respect to the principles of the Convention, nor in respect of a State's participation in the mechanisms set up for its implementation.

Austria:

1. Austria has declared no reservations.
2. Switzerland has declared as a reservation to apply art. IV.8 only partly.
3. Reservations of other countries have not been notified.

Article XI.8

This Article outlines the simplified procedure for the adoption of amendments to the Convention. The possibility of amending the Convention should be used sparingly, and cannot be used with respect to the principles of the Convention.

The Article provides that any draft amendment shall require a two-thirds majority of the Parties entitled to be represented, in accordance with Article X.2, on the Committee for the Convention on the Recognition of Qualifications concerning Higher Education in the European Region.

Paragraph 1 of this article requires that the Parties to the Convention express their consent to be bound by any Protocol amending the Convention. This requirement can be satisfied either by a formal expression of consent to be bound such as a signature followed, where necessary, by ratification, acceptance or approval, or by simplified procedures, e.g., permitting a Party to the Convention to "opt out", so long as the modalities used provide that the Protocol does not enter into force in respect of a Party without its consent.

Article XI.9

This Article describes the functions of the depositaries of the Convention. The Secretary General of the Council of Europe and the Director-General of UNESCO shall jointly be the depositaries of the Convention. The Article is modelled on Article 32 of ETS no. 127 on Mutual Administrative Assistance in Tax Matters, which is a joint Council of Europe/OECD Convention.

Austrian editorial comments

- (1) 45 member countries (as of September 2003)
- (2) 45 accessions (as of September 2003)
- (3) ECTS is in use already generally
- (4) ECTS is not any more restricted to the European Union
- (5) The rules have already been modelled

This communiqué becomes effective by January 1, 2004.

Vienna, 18 September 2003

On behalf of the Federal Minister:

Dr. Kasparovsky