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CONSEIL DE L'EUROPE

MONITORING THE IMPLEMENTATION OF THE LISBON RECOGNITION CONVENTION



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MONITORING THE IMPLEMENTATION OF THE LISBON RECOGNITION CONVENTION

The Committee of the Convention
on the Recognition
of Qualifications concerning
Higher Education
in the European Region



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Organization

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Foreword

In accordance with the Lisbon Recognition Convention, the Committee of the Convention shall oversee its implementation and guide the competent authorities in implementing the convention and in their consideration of applications for the recognition of foreign qualifications. The Rules of procedure (adopted by the Committee in Vilnius in 1999)¹ reiterate this role – the function of the Committee is to promote the application of the convention and oversee its implementation.

Article II.1 of the convention states that where the central authorities of a party are competent to make decisions in recognition cases, that party shall be immediately bound by the provisions of the convention and shall take the necessary measures to ensure the implementation of its provisions on its territory. Where the competence to make decisions in recognition matters lies with individual higher education institutions or other entities, each party, according to its constitutional situation or structure, shall transmit the text of this convention to those institutions or entities and shall take all possible steps to encourage the favourable consideration and application of its provisions.

The provisions of Article II.1 are central to determining the obligations of the parties to the convention. This article places upon these parties an obligation to make sure that information on the provisions is disseminated to all competent recognition authorities, and that these institutions are encouraged to abide by the convention (Explanatory report to the convention).²

The objective of this monitoring exercise has been to oversee the implementation of the main provisions of the convention and to report to parties on the outcome of this monitoring, presenting the main findings and recommendations. This monitoring report is also a contribution to the commitment set out in the Yerevan Communiqué (2015) to review national legislation to ensure full compliance with the convention, and to ask the Convention Committee, in co-operation with the ENIC (Council of Europe and UNESCO European Network of National Information Centres on academic recognition and mobility) and NARIC (EU Network of National Academic Recognition Information Centres) networks, to prepare an analysis of the national legislation reports by the end of 2017, taking due account of this monitoring report.

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1. Rules of procedure, available at www.aic.lv/meeting/conv_com/eng/c_it_3.htm (accessed 31 October 2017).
 2. Explanatory report to the Convention, available at www.coe.int/en/web/conventions/full-list/-/conventions/treaty/165 (accessed 31 October 2017).

This is the first monitoring of implementation of the Lisbon Recognition Convention (LRC) since its signature in 1997. The questionnaire used for the monitoring exercise was drawn up by the Bureau of the Convention Committee, namely Gunnar Vaht, President of the Committee, Gayane Harutyunyan, Vice-President, Allan Bruun Pedersen, Vice-President, and Baiba Ramina, Rapporteur, together with the joint Council of Europe/UNESCO Secretariat. The monitoring covers the 10 main provisions of the convention and comprises 22 questions relating to implementation of the main principles. The questions focus primarily on how the convention requirements are regulated at national level and to what extent the rules are reflected in national legislation. In cases where some or all of the provisions are not regulated at national level and where the higher education institutions have total autonomy in establishing the principles of the convention, the aim has been to discover how national authorities oversee implementation of the principles of the convention at institutional level.

As stated above, the objective of this monitoring report is to monitor implementation of the convention by the parties to the convention. The executive summary focuses on the key findings and the conclusions focus on the recommendations made by the Convention Committee Bureau, which will require political decisions from the Convention Committee and from national authorities for follow-up action. The various chapters of the report elaborate further on both the key findings and the recommendations.

The questionnaire was sent to 53 states parties to the LRC, and replies were received from 50 countries. The initial deadline given was 15 February 2015, but this was extended to June 2015. The analysis by the members of the Convention Committee Bureau took place from June to November 2015 and was assisted and reviewed by the Council of Europe and UNESCO, the joint Secretariat of the LRCC Bureau.

Gunnar Vaht

President of the Lisbon Recognition Convention Committee (LRCC)

Country codes

AL – Albania
AD – Andorra
AM – Armenia
AU – Australia
AT – Austria
AZ – Azerbaijan
BY – Belarus
BE-NL – Belgium – Flemish Community
BE-FR – Belgium – French-speaking Community
BA – Bosnia and Herzegovina
BG – Bulgaria
HR – Croatia
CY – Cyprus
CZ – Czech Republic
DK – Denmark
EE – Estonia
FI – Finland
FR – France
GE – Georgia
DE – Germany
VA – Holy See
HU – Hungary

IS – Iceland
IE – Ireland
IL – Israel
IT – Italy
KZ – Kazakhstan
LV – Latvia
LI – Liechtenstein
LT – Lithuania
LU – Luxembourg
MT – Malta
ME – Montenegro
NL – The Netherlands
NZ – New Zealand
NO – Norway
PL – Poland
PT – Portugal
RO – Romania
RU – Russian Federation
SM – San Marino
RS – Serbia
SI – Slovenia
ES – Spain
SE – Sweden
CH – Switzerland
MK – “The former Yugoslav Republic of Macedonia”
TR – Turkey
UA – Ukraine
GB – United Kingdom

Executive summary

This executive summary is an overview of the key findings of the monitoring exercise. The review also includes recommendations for improving implementation of the convention. These recommendations are presented in the conclusions of the report.

Access to an assessment

The Lisbon Recognition Convention (LRC) states that holders of qualifications shall have adequate access, upon request to the appropriate assessment body, to an assessment of those qualifications. Access to an assessment is crucial. The parties to the convention are obliged to provide a fair assessment of all applications for the recognition of qualifications obtained in another party, and the parties have an obligation to provide such an assessment on a non-discriminatory basis. In 36 countries, access to an assessment is regulated at national level by a legal act, by virtue of which the holder of a foreign qualification has access to an assessment. In seven countries, access to an assessment is not regulated at national level, mainly because nothing concerning the assessment and recognition procedures is regulated at national level on account of the autonomy of higher education institutions (HEIs), which in these countries have their own admission policies and procedures. However, some of these countries, where access to an assessment is not regulated at national level, have a form of monitoring or access is considered in the broader context of quality assurance in the sector, which is periodically reviewed.

Assessment and recognition criteria and procedures

In 31 out of the 50 countries, the assessment and recognition criteria and procedures are regulated. There are some countries where there are rules either for criteria or for procedures but not for both. In 13 countries the criteria and procedures are established by HEIs, and in most of these countries there is no oversight of the implementation of the LRC provisions at national level.

In the countries where criteria and procedures are regulated at national level, the nature, content and level of the rules vary considerably. In most countries the procedures are detailed and clear, but the criteria, in most cases, are general or missing; 32 countries reported that criteria are regulated at national level, but we found that only in 12 countries were the criteria really reflected in national legislation. Interestingly, more countries use input criteria (such as nominal duration and list of courses and content) than output criteria (such as formal rights and learning outcomes). In countries which use a nostrification procedure as their assessment method, the detailed content and other input elements are the main criteria for recognition of a foreign qualification. In some countries assessment and recognition are based on seeking equivalence between the qualifications. Our analysis focused on what are regarded as substantial differences: nominal duration, including nominal duration of a previous level of education (for example in assessing higher education qualifications, the length of general education is also taken into account) is still used in some countries as the main or sole recognition criterion. Just two countries reported that outcomes (i.e. learning outcomes and/or formal rights/functions of the qualification) were the sole or most decisive criterion in their assessment of foreign qualifications.

In general, in most countries some or all of the relevant procedures are regulated at national level. These relate primarily to time limits, fees and the required documents. Some countries also have detailed rules regarding the translation, verification and legalisation of documents (*apostille* or certification).

In those countries where the assessment criteria and/or procedures are not regulated at national level, the HEIs have rules on acceptance procedures. Criteria regulated at institutional level are not transparent and generally not made available to applicants.

The admission procedure may include time limits, the documents required and fees, but generally speaking there are no rules governing access criteria and procedures, or the latter are not published and are not available to applicants. Most national authorities (national ENIC offices) organise training courses, prepare guidelines or refer to the European Area of Recognition manual for HEIs (EAR-HEI manual), but in principle there is no regular oversight nor a source of examples of best practice for assessment and recognition that can be followed by HEIs.

The quality of information on criteria and procedures varies considerably. In 25% of countries, the assessment criteria and procedures are transparent, meaning that the information is easily available to applicants. The majority of countries have a link from the website of the national ENIC office or ministry to the relevant legislation, which in most cases is in the national language but without any translations in widely spoken languages. Moreover, the legal texts are difficult for applicants and, because the laws in question are lengthy, it is not easy to find the relevant articles.

Only six countries replied that rankings are also used as a criterion in the recognition of foreign qualifications. Among these, three have included rankings as an assessment criterion in their national legislation, while only one country uses rankings as a non-regulated criterion for qualifications outside the convention area.

Time limit

There is a time limit for assessment and recognition (or for all administrative services, including for recognition) laid down in 36 countries. Overall, the time limit in these countries varies from one to six months, but in the vast majority (35 out of 36 countries) it is within the four-month limit recommended by one of the subsidiary texts to the LRC.

The LRC states that a decision on recognition shall be made within a reasonable time limit. The Revised Recommendation on Criteria and Procedures for the Assessment of Foreign Qualifications³ calls for applications to be processed as promptly as possible, and this processing time should not exceed four months. It was noted that the time taken to assess foreign qualifications is relatively long (between two and four months), because the number of applications increases every year and there is a shortage of staff in the relevant departments. However, a time limit should not be an obstacle for applicants in admission to HEIs or in applying for employment.

Right to appeal

In general, all countries have overarching national administrative procedures which include a right to appeal. Consequently, the individual's right to appeal is provided for in all countries. Some countries did not provide evidence of existing legislation. The right to appeal is regulated both nationally and internally; however, greater recourse is had to national procedures. The general practice is the national legislation on administrative procedures which includes an article on the right to appeal. Several countries have national regulations on recognition or higher education which include an article on appeal procedures.

All online links provided by the countries are active and information is available, but the quality of that information varies considerably. Some countries provide information in the national language(s) and in English. It is not always easy to find the information on the right of appeal, and 15 countries failed to provide any online links that would supply evidence that information on the right of appeal is included in the recognition statement.

Substantial differences

Only seven countries replied that they had a nationally regulated definition of substantial differences. Of these, only five submitted documentation in this respect, and only in two countries can it be said that the definition of substantial differences is very detailed, in compliance with the principles and procedures of the convention text.

Furthermore, the vast majority of countries replied that they have no definition of the term. The explanatory report to the LRC, under Article VI.1 concerning recognition of Higher Education Qualifications, states that "it is underlined that the difference must be both substantial and relevant as defined by the competent recognition authority."

3. Available at www.coe.int/t/dg4/highereducation/recognition/Criteria%20and%20procedures_EN.asp (accessed 1 November 2017).

This clearly implies that the competent recognition authorities must have definitions of what may be considered to be a substantial difference between a foreign qualification and a similar/comparable national qualification. The LRC does not clearly indicate that these criteria should be regulated at national level, but rather that applicants should have clear information on what may be considered to constitute a substantial difference, if their qualifications are not fully recognised by the competent recognition authorities.

The survey has shown that, in many cases, the member countries have a relatively common understanding of which criteria may be considered as substantial differences and, accordingly, a reason for non-recognition or partial recognition. However, it also becomes clear that for some of the most significant and debated criteria among the competent recognition authorities the situation is less uniform. Examples are criteria such as differences of more than one year in the nominal duration, differences in access requirements and the fact that there is no final thesis.

Several countries have pointed out that the final decision on a finding of substantial differences between the foreign programme and a similar national programme cannot be reduced to a single criterion but is taken when the competent recognition authority, after comparing the programmes, can establish a combination of criteria which are found to be substantially different.

A number of countries replied that the criteria used for examining possible substantial differences must be weighed against the purpose of the recognition. The LRCC has on several occasions emphasised the need to evaluate foreign qualifications in the light of the purpose of the recognition process. This clearly indicates that, when comparing qualifications, the competent recognition authorities should carefully weigh the purpose of the recognition when deciding or advising on full, partial or non-recognition. As an example, the lack of a thesis in a master's programme may be considered a substantial difference if the purpose of the recognition is access to doctoral studies, while it may not be considered a substantial difference if the purpose of the recognition is for access to the labour market.

The LRC text dates back to 1997. Obviously developments within higher education since then are not reflected in the LRC text. One of the most notable changes in higher education is the paradigm shift from a focus on learning inputs to outputs in terms of learning outcomes. Several countries referred to a comparison of learning outcomes as a vital component in the assessment of foreign qualifications.

In 28 countries different access requirements are considered to be a possible substantial difference. Other countries focus on the formal rights of access and make decisions or advisory statements on access based on the formal rights attached to the applicant's qualifications. It is an important feature of a qualification whether, for example, an upper secondary qualification gives direct access to bachelor programmes or if a foreign master's programme gives direct access to doctoral programmes; this must be reflected in the final recognition decision or statement. Conversely, a professionally oriented bachelor qualification may not give direct access to research-based master's programmes in the country of origin. This could legitimately be considered a substantial difference in countries where the bachelor programme is more research-based and gives direct access to master's programmes.

In 35 countries a shorter nominal duration of study of more than one year was considered to be a substantial difference. A comparison of the nominal duration of studies has been and is still today considered a key element in assessing foreign qualifications. However, the picture becomes a bit blurred when one compares the achieved learning outcomes and the fact that the nominal duration may be considered differently from one country to another. The concepts of nominal duration and full-time studies may vary from country to country even though the Bologna countries do have a common benchmark in terms of ECTS (the European Credit Transfer System). Achieved learning outcomes may also show fewer differences than a purely quantitative comparison and, as described and recommended above, recognition should also be weighed against the purpose of the recognition process.

In 18 countries the lack of final thesis is regarded as a substantial difference, while only four countries stated that a less demanding final thesis is a substantial difference. Again it can be argued that the lack of a final thesis must be weighed against the purpose of the recognition process.

When considering a less demanding final thesis as a substantial difference it must be carefully considered whether or not the foreign programme contains other ways of achieving research skills such as courses in research methods, exhibitions in fine arts programmes or a combination of several smaller projects. It should also be taken on board that legal requirements for a certain number of credits in a national system cannot automatically be applied to foreign qualifications; rather, differences among educational systems call for flexible approaches to recognition.

In 35 countries (over two thirds of the countries that responded) differences in programme content/courses were considered to be a substantial difference. It is not clear if this leads to non-recognition. Such differences may be taken into consideration for the purposes of recognising the level of the programme, e.g. recognising a bachelor degree in physics as a bachelor degree in natural sciences rather than recognising it as comparable to a bachelor degree in physics if the content of the programme is substantially different. This type of recognition may give the holder some professional rights within the labour market or academic rights in terms of access to master's programmes, where admission can be based on a broad range of different bachelor programmes.

Replies from 13 countries said that online studies may be considered a substantial difference, and six countries stated that part-time studies might be regarded as a substantial difference. The LRC does not distinguish between the different ways of delivering programmes. Rather, if the online or part-time programmes are fully accredited they should be treated no differently from other programmes at the same level. However, one country explained that certain professional programmes, such as programmes within the field of medicine, cannot be offered online or only part of them can be offered online, and the delivery of online programmes in subjects with an emphasis on professional and practical aspects and skills may indeed be considered a substantial difference.

Ten countries consider the fact that there is no similar programme in their national systems to be a substantial difference. However, as in the case of different