

An overview of recommendations issued by the joint EC/CoE project

“Strengthening Higher Education Bosnia Herzegovina” 2009-2011

**related to the legislative framework for Quality Assurance and the
Qualifications Framework in Higher Education**

DRAFT

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This document was elaborated as part of the joint European Commission-Council of Europe project 2009-2011 ‘Strengthening Higher Education in Bosnia Herzegovina (SHE III)’. The views expressed herein are those developed in the course of the project, based on the advice of the experts engaged in it. These views should not be read as expressing an official position by the European Union and/or the Council of Europe.

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1. Introduction

This document was elaborated in the frame of the joint European Commission-Council of Europe project 2009-2011 'Strengthening Higher Education in Bosnia and Herzegovina' (SHE III).

The SHE III project had – as one of its four components – the task to review legislation relevant to quality assurance and the framework for qualifications in higher education and, where appropriate, to recommend changes.¹

This document was compiled following a recommendation of the Project Steering Board at its 3rd meeting on 28 October 2010: To prepare a consolidated document with key recommendations for legislative reform and implementation of existing legislation made under the joint EC/CoE project, to be submitted to the relevant authorities in BiH for consideration and possibly implementation.²

This document is therefore based entirely on reports and recommendations issued by CoE experts in the course of this project and – in accordance with its Terms of Reference - concentrates on aspects related to **quality assurance and the framework for qualifications in higher education**. Another legislative review in the areas of Governance, Management and Recognition is conducted under the parallel [EU funded Project "Support to Higher Education Reform in BiH"](#).

This document is intended for submission to the SHE III Project Steering Board, the BiH Rectors Conference and the Conference of Ministers of Education in BiH (once the latter resumes its work) for endorsement and further implementation.

This document could not have been produced without the extensive guidance provided by the CoE experts Stephen Adam, Tim Birtwistle, Bruno Curvale, Peter Findlay, Volker Gehmlich, Dionyssi Kladis and Gerard Madill and the open and constructive discussions granted by a wide range of partners and stakeholders in BiH throughout the project's duration. The CoE owes its gratitude to all involved and in particular to Mr Birtwistle for carrying out a targeted review and analysis of relevant Legislation and Quality Assurance and Qualifications Frameworks in July 2010.³

¹ The project's logframe is accessible at <http://www.jp.coe.int/CEAD/JP/Default.asp?TransID=131>.

² More precisely, the Project Steering Board recommended that the Ministry of Civil Affairs

- a. Assembles the conclusions from a series of legislative reviews and recommendations – one prepared by the HEA, several others prepared under various EU-funded projects - and
- b. Proposes to the Conference of Education Ministers the establishment of a working group duly staffed and mandated to analyse the existing legislation and the available expertise and to propose an action plan for the further implementation, harmonisation and revision of relevant legislation in BiH.

For details, see http://www.coe.ba/web2/en/dokumenti/doc_download/1103-3rd-steering-board-meeting-conclusions.html.

³ See references on pages 7/8.

2. Recommendations

2.1 Compatibility of the 2007 BiH Framework Law on Higher Education with 'Bologna' in general

The overall expert conclusion in the course of the joint European Commission-Council of Europe project:

Despite certain inconsistencies with the goals and policies of the European Higher Education Area the 2007 BiH Framework Law on Higher Education (FHEL) is workable. It must however be implemented more systematically. BiH should take stock of the law's implementation so far and issue and implement an action plan for the harmonisation of legislation at lower level.

Articles 1 and 2 of the FHEL were emphasised for the potentially positive role they can play for the further development of BiH Higher Education in the EHEA:

Article 2, FHEL, clearly states that at state level the Bologna Process (and thus the March 2010 creation of the European Higher Education Area (EHEA)) is "accepted" and thus underpins and is the strategic framework for all future developments of BiH higher education. All action lines of the Bologna Process are therefore a part of this strategic framework.

Further, Article 1 has already stated that BiH will "establish bodies" and "set methods of quality assurance".

The CoE experts identified a number of areas they recommend to consider carefully once BiH engages in a revision of the framework law.

2.2 Recommended areas for harmonisation of the law with 'Bologna'

Article 5, FHEL

Art 5 defines the cycles of studies in terms of credits with time frames. Two elements here do not accord with the Bologna Process, namely:

(a) the apparent requirement to accumulate a total of 300 ECTS to obtain a Masters degree (cycle 1 + cycle 2). This is not in the overarching framework of qualifications of the EHEA (QF-EHEA). It does not accord with Article 4 and lifelong learning.

Article 4 states that any qualification obtained by a student must be an "internationally recognised higher education degree", the article then states what higher education shall be based upon including lifelong learning.)

(b) the allocation of 180 ECTS to obtain a doctorate (or equivalent).

A major feature of the EHEA is to introduce more flexibility into higher education systems and encourage a variety of access and progression routes. The Bologna Ministerial meeting in Bergen 2005⁴ adopted the Overarching Framework of Qualifications of the EHEA and ECTS credit ranges for the first two cycles (180-240 for first cycle and normally 90-120 for the second cycle). It did not prescribe the number of ECTS credits necessary for access to study in subsequent cycles. Neither did it ascribe ECTS credits

⁴ For a download of the Bergen Communiqué 'The European Higher Education Area - Achieving the Goals' in the BiH languages go to <http://www.heg.gov.ba/Dokumenti/Bolonja>

to the third cycle, since the attribution of ECTS, being based on learning outcomes, is a concept that is only partially or not at all applicable to doctoral studies.

Recommendation: Ideally Article 5 should be amended to give true effect to the EHEA and its restatement in the Framework for Higher Education Qualifications in BiH (BiH Official Gazette 13/08). For a detailed analysis and recommendations see the “Guidance on the use and acquisition of academic and scientific titles in Bosnia and Herzegovina (BiH)” by Stephen Adam from December 2009⁵.

Articles 8 and 9, FHEL

Article 8 (conditions for access to higher education in BiH for students from abroad) and Article 9 (description of modes of study) seem problematic.

Explanation: They could limit widening access and progression, and thus lifelong learning policies in accordance with Article 4.

Article 28, FHEL

In Art 28 candidates for the position of ‘Assistant’ at university are required to have accumulated a minimum of 240 ECTS.

Explanation: In accordance with the EHEA and the BiH Framework for Qualifications in Higher Education graduates of one and the same study cycle have attained the same degree level, i.e. the same level of knowledge, skills and understanding (even though the amount of learning outcomes and accordingly ECTS might differ). A differentiation between first cycle degrees on generic grounds would be a contradiction, even though the profile of degrees at the same level will of course vary.

Articles 38 and 39, FHEL

Art 38 and 39 ascertain – among others - the students’ right to voice opinions and complaints. However, they give no guidance on “procedures for appeal” or “dealing fairly” with complaints. Art 39 refers to “a court of competent jurisdiction” but it would be recommendable to introduce a prior instance for the resolution of conflicts (a student ombudsman or similar).

Explanation: Complaints and appeals do link in to quality/the quality of the student experience and in a broader sense to the overall Bologna goal of putting students in the centre of the learning process and increase student participation in governance and management.

‘The 7 Key Strategies and Guidelines’, BiH Official Gazette 13/08

With the support of the previous joint project SHE II (2007-2009) BiH developed a set of tools and guidelines for higher education reforms in accordance with the requirements of the Bologna Process. Out of this set, seven documents were adopted by the BiH Council of Ministers and published in the BiH Official Gazette 13/08:

A National Action Plan to improve the procedures related to the recognition of qualifications in line with the Lisbon Recognition Convention, a template (model) for the Di-

⁵ See references on pages 7/8.

ploma Supplement issued by BiH universities, a users' manual for the Diploma Supplement, the BiH standards and guidelines for quality assurance in higher education, recommendations for their implementation, a generic Framework of higher education qualifications in BiH, recommendations for its implementation.

Recommendation: That all parties continue to do their utmost to ensure that the spirit of the "7 Key Strategies and Guidelines to implement the Bologna Process in BiH" and the implementation of them under the Framework Law is maintained, especially to ensure the continuing development and improvement of the quality of the educational experience for all students.

2.3 Recommendations relating to the broader higher education context

The issues raised in 2.3 are primarily a matter for higher education reform. However, for the sake of a holistic analysis one cannot ignore the effect that these areas of organisation and governance of the universities have upon matters of quality and operation of a qualifications framework (within the scope of the EHEA), use of academic titles (new and pre-existing), access to higher education. The same stands for the broader governance issues of the state level bodies that are inextricably linked to the recognition and facilitation of good quality and - as stated in Article 5 - "internationally recognised degrees".

Articles 15-17 and 42-48, FHEL

There is a lack of clear lines of authority, decision making and compliance requirements for universities and for other bodies; and a tension between autonomy and collective strength and between autonomy and operating within guidelines and in accordance with both the letter and spirit of the law.

Article 48 and 49, FHEL

Art. 48 clearly defines the scope of authority of the Agency for Development of Higher Education and Quality Assurance (the Agency) including some competence to "recommend" (for example on criteria for standards, development policy and also removal of shortcomings in the quality of studies) and some competence to "set" (for example criteria for accreditation, adoption of norms setting minimum standards and quality standards and analyses) and to "propose" (general guidelines and criteria regarding funding allocation to research).

Art. 49 defines the scope of authority the Agency has in the area of accreditation and again sets a variety of levels of the authority from "publishing" the public competition for experts and "establishing" the committee (which has a defined membership make up) to draw up the list of experts and then "submit" this to "all" the ministries in BiH and the department in the Brcko District. The actual accreditation has to be done, according to article 49 paragraph 7, in accordance with the criteria "set" by the Agency under article 48 paragraph 1 with a stated duty to refer the matter to Governing Board in the event of "lack of harmonisation" to "take further measures" that can include "annulment of an accreditation decision".

Recommendation 1: The Agency continue to move forward (under articles 48 and 49) to give effect to its role and set the framework for implementation of the "7 Key Strategies and Guidelines to implement the Bologna Process in BiH" (BiH Standards

and Guidelines for Quality Assurance) according to the full range of its legislative duties for BiH and thus enable the ministries of education to ensure that their actions do comply with the matters set by the Agency.

Recommendation 2: Ideally articles 48 and 49 should be amended to clarify the interaction with, and mandate and notion of an independent quality assurance agency in BiH that carries out external reviews. For a detailed analysis and recommendations see the reports by Bruno Curvale and Peter Findlay from

February 2010: pages 1-4 outline a workable model for the division of tasks and responsibilities under the ESG and the framework law, suggest definitions for key terms, and define the respective tasks and

April 2010: pages 4/5 refer to obstacles in the framework law.⁶

Article 22, FHEL

Art 22 refers to “official language” and defines the scope of choice as to what is the official language.

Recommendation: One assumes this provision should refer to the administrative language only. A university would not want to have its medium for learning (nor teaching or research) reduced to one single language. In order to foster academic mobility, a major goal of the EHEA, the provision of higher education in several languages, including widely spoken foreign languages, is common practice.

Articles 28 – 34, FHEL

Art 28-34 detail the appointment of faculty (academic staff) ending in article 34 with the requirement for “public competition”. Whilst these requirements provide assurance regarding contract terms and transparency they will, one assumes, create a lengthy and potentially cumbersome appointments process.

2.4 Harmonisation of lower level legislation with state level law

Articles 1-4, FHEL

Recommendation: That Art 1 - 4 be fully recognised and enacted by all subsequent Art 63 legislation (including the current RS Law).

Article 63, FHEL

Art 63 requires that “Laws of the Republika Srpska and cantonal laws shall be harmonised with the provisions of this Law no later than six months after this Law has come into force”.

That time has long passed and it appears no systematic audit of relevant legislation was undertaken so far.

Recommendation: That the responsible authority at state level – in cooperation with the Ministers of Education in BiH - commissions such an audit and commits the corresponding authorities to process all necessary adjustments. This recommendation also

⁶ See references on pages 7/8.

concerns other relevant legislation and subsidiary regulations, related to – for example – labour, employment, social security, job classifications, statistics etc.

2.5 Harmonisation of academic practice with the framework law

Article 58, FHEL

According to Art 58 there is a full implementation of ECTS including accumulation and use of learning outcomes and these are embedded in the curriculum.

Art 58 is key to comply with the EHEA Qualifications Framework and ensure that the Art 4 requirement (“internationally recognised higher education degree”) is met.

Recommendation: Systematically analyse academic practice. Where appropriate provide systematic guidance for proper implementation. This will facilitate the national qualifications framework to operate once it has been established, implementation launched and self certification completed.. It needs to be promulgated by an effective team of Bologna Experts and with effective co-ordination, by the BiH Rectors Conference, the HEA and/or a BiH Bologna Committee, once the latter is established.⁷

Article 60, FHEL

Art 60 requires all Higher Education Institutions in BiH to harmonise their statutes and internal regulations with the framework law within 6 months from the framework law’s adoption.

Recommendation: Systematically analyse legislative acts and academic practice. Where appropriate provide guidance for proper implementation, with effective coordination by the BiH Rectors Conference or other competent bodies.

⁷ See recommendations from [Madill’s Report July 2010](#) and [Adam’s Guidance booklet, December 2009](#)

3. Reference documents produced under the joint EC/COE project

- (1) "Recommendations and advice for setting up a Bologna Committee for Bosnia Herzegovina", Karen Roberts, January 2011
- (2) "[Curriculum Development Good Practice Guide](#)", Stephen Adam, December 2010
- (3) "Report on the need for coordination of the implementation of the Bologna reforms in Bosnia and Herzegovina", Dionyssi Kladis and Gerard Madill, December 2010
- (4) "[Report on a fact finding visit to Sarajevo 19-22 July 2010 regarding Legislation and Quality Assurance and Qualifications Frameworks and an analysis of the laws](#)", by Tim Birtwistle, August 2010
- (5) "[Report on a fact finding visit to Sarajevo 7-10 June 2010 to review and assess the need for expertise in higher education reform in BiH](#)", Gerard Madill, July 2010
- (6) "[Report on expert consultations on the implementation of external quality assurance in BiH, Banja Luka 1-3 February 2010](#)", Bruno Curvale and Peter Findlay, February 2010
- (7) "[Report on expert consultations on the implementation of external quality assurance in BiH](#)", Sarajevo/Mostar 29-31 March 2010, Bruno Curvale and Peter Findlay, April 2010
- (8) "[Guidance on the use and acquisition of academic and scientific titles in Bosnia and Herzegovina \(BiH\)](#)", Stephen Adam, December 2009
- (9) "[7 Key Strategies and Guidelines to implement the Bologna Process](#)", EC/CoE 2008, BiH Official Gazette 13/08

This document was compiled by
Karen Roberts
CoE project coordinator
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