



Explanatory Report to the European Convention on the General Equivalence of Periods of University Study*

Rome, 6.XI.1990

I. Background

1. Five multilateral treaties have been concluded within the Council of Europe in the field of the mobility of students and recognition of qualifications in higher education:

- ETS No. 15: European Convention on the Equivalence of Diplomas leading to Admission to Universities, 1953;
- ETS No. 21: European Convention on the Equivalence of Periods of University Study, 1956;
- ETS No. 32: European Convention on the Academic Recognition of University Qualifications, 1959;
- ETS No. 49: Protocol to the European Convention on the Equivalence of Diplomas leading to Admission to Universities, 1964;
- ETS No. 69: European Agreement on the Continued Payment of Scholarships to students studying abroad, 1969.

The first four conventions aim at the establishment of a system of recognition of qualifications within the circle of Parties based on the principles of non-discrimination, mutual respect for the accreditation systems of public secondary and higher education in the other Parties, and decentralised implementation respecting where appropriate the autonomy of universities and other institutions of higher education in matters of academic recognition.

2. In particular, the 1956 Convention (ETS No. 21) on the Equivalence of Periods of University Study provides, in Article 2.1, for the recognition of "a period of study spent by a student of modern languages in a university of another member country of the Council of Europe as equivalent to a similar period in his home university provided that the authorities of the first mentioned university have issued to such a student a certificate attesting that he has completed the set period of study to their satisfaction".

(*) The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community entered into force on 1 December 2009. As a consequence, as from that date, any reference to the European Community shall be read as the European Union.

At the time of adoption of the above Convention, periods of study abroad were, at the undergraduate level, far more frequent in the case of modern languages than in other fields. Nevertheless, Article 3 of the Convention calls for consideration of "the means to be adopted in order to recognise a period of study spent in a university of another member country of the Council of Europe by students of disciplines other than modern languages and especially by students of pure and applied sciences".

Finally, Article 4 of Convention ETS No. 21 calls for endeavours "to determine by means of unilateral or bilateral arrangements the conditions under which an examination passed or a course taken by a student during a period of study in a university of another member country of the Council of Europe may be considered as equivalent to a similar examination passed or a course taken by a student in his home university".

3. In the decades following the adoption of the Council of Europe Conventions, increasing emphasis came to be placed on co-operation between universities and other institutions of higher education, as an essential complement to the so-called free mobility of students and academic staff; see for example, the report by Rector Capelle of 1977, "Mobility of Postgraduate Students, Academic Teachers and Research Workers".

In 1984, the Committee of Ministers of the Council of Europe adopted Recommendation No. R (84) 13, concerning the situation of foreign students. The appendix to this recommendation includes the following relevant principles:

"I. Study abroad: basic principles

A. Preference for periods of study

1. In general, students should be encouraged to spend limited periods of study abroad, one or two years, depending upon the course of study.

2. In the interest of the students themselves, studies should normally be begun and carried on in the country of origin for about two years, allowing the students to acquire the necessary grasp of their field of study, unless the very nature of the study requires that the courses be started abroad.

3. Special encouragement should be given to any study abroad being planned and agreed by the institutions concerned as part of an integrated course or joint study programme."

4. The integration of periods of study abroad by a student within an organised co-operative programme between two or more universities or other institutions of higher education has become widely seen as desirable for several reasons:

– it provides much better educational guarantees to the student of a programme appropriate to his or her needs;

– it encourages the cross-fertilisation of ideas and practices between institutions, and a spirit of self-evaluation within them;

– it reduces the risk of a "brain drain", consequent upon students living abroad for an entire course of study.

In accordance with this philosophy, a number of substantial programmes have been set up, both national, bilateral and European, to encourage organised co-operation between universities and other institutions of higher education, involving planned periods of study abroad for a number of their students. These programmes are complemented by initiatives of the institutions themselves using their own or other budgetary resources.

5. Such periods of study spent in an institution of higher education abroad need to be taken into account for purposes of academic recognition in the home country, and, if required, in other countries. The existence of full academic recognition for periods of study may indeed be a pre-condition for the award of grants under particular programmes, such as ERASMUS. The starting point is the assumption that an agreement exists between two universities or other institutions of higher education, an agreement which specifies both periods of study and their content. So far as academic recognition lies within their competence, both the institutions parties to the agreement can be expected to accept those periods as counting towards the satisfaction of their own requirements for the award of degrees or other diplomas. To the extent that competence for academic recognition is retained by government, it is necessary for arrangements also to be made at this level.

6. The purpose of the present Convention is to lay down as a general principle and obligation between the Parties that periods of study, passed within a proper agreement between universities or other institutions of higher education, should be given full academic recognition, not only by the institutions concerned but also, to the extent it retains competence, by the State, and by other States party to the Convention.

7. The present Convention, which covers all periods of study abroad taken within an agreement between two institutions of higher education, is complementary to the 1959 European Convention on the Academic Recognition of University Qualifications (ETS No. 32). The latter, it is recalled, provides for the mutual recognition of all university qualifications, defined as degrees, diplomas, and certificates marking the completion of a period of university study, but not those awarded on the results of a part-examination. Accordingly, the most significant cases of study abroad within Europe in higher education are covered by either or both of Convention No. 32 or the present Convention.

The cases not covered therefore involve students moving from one country to another outside any inter-institutional agreement, and applying for recognition of partial studies that have not been validated by a definite academic qualification.

It was not considered possible to lay down specific obligations covering these situations in the present Convention, which is based on the system of agreements between universities and other institutions of higher education.

8. The preparation of a Convention giving effect to these principles was first recommended by a working group of the Council of Europe's Network of National Information Centres on academic mobility and equivalence, convened to consider the application of the European Convention on the Equivalence of Diplomas leading to Admission to Universities and of the other European conventions in the field of education (Hallein, Austria, 16-17 February 1988). The proposal was agreed by the Standing Conference on University Problems (CC-PU) at its 11th Session from 22 to 24 March 1988. The Council for Cultural Co-operation (CDCC) transmitted this proposal to the Committee of Ministers at its 54th Session from 20 to 24 June 1988. At the request of the Committee of Ministers, the Secretariat consulted the Standing Conference on University Problems (CC-PU) on the draft text, at its 12th Session from 14 to 16 March 1989. The CC-PU took note of this text, and forwarded it to the CDCC and the Committee of Ministers for approval and adoption. At its 60th Session from 20 to 23 June 1989, the CDCC approved the text and transmitted it to the Committee of Ministers. After further discussions in the Committee of Ministers at the level of the Ministers' Deputies, the CDCC considered the matter again at its 61st Session from 23 to 26 January 1990 and the CC-PU at its 13th Session from 20 to 22 March 1990. The text of the Convention was adopted on 22 June 1990 at the 442nd meeting of the Ministers' Deputies and opened for signature on 6th November 1990 at the 87th meeting of the Committee of Ministers.

II. Comments on provisions of the Convention

Article 1

9. The Convention applies to institutions of higher education, including both universities and other institutions. However, this article does not lay down any criterion of substance for the definition of "institutions of higher education" in the non-university sector. Instead, the definition of the term "institutions of higher education" is identical to that of the European Agreement on Continued Payment of Scholarships to students studying abroad (ETS No. 69).

Accordingly, the extent to which the Convention shall apply to institutions other than universities has to be determined by the competent authorities in each Party.

This approach takes account of the fact that non-university institutions have become a major part of the higher education system in many countries, while allowing the Parties to adjust the Convention's application to their own particular circumstances.

It is not intended to prejudice the application of similar principles to agreements between institutions of tertiary education which are not regarded as part of higher education, though it may be noted that such institutions are often subject to a different legislation and may have less autonomy to enter into transborder agreements.

Article 2

10. This article applies to the extent that the State retains competence in matters of academic recognition. This competence may, for example, be complete; or applying to certain types of institutions, or certain levels or subjects of qualifications; or exercised at the level of general regulations, rather than individual decisions. The Convention is designed to accommodate a wide variety of cases, and their possible development. In spirit it thus follows Conventions Nos. 15, 21 and 32 (see above).

11. The term "recognise" is used in a similar sense to its use in other international instruments on the recognition of academic qualifications. (See, for example, Article 1 of the Unesco Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region.) That is to say, it means that where the successful completion of a period of study within an institution or programme of higher education is required, or taken into consideration, for the award of a higher education degree or other diploma, the successful completion of the period in question passed within a different institution is treated equally for this purpose.

12. The periods of study referred to may be in any subject, and at any level of higher education. In practice the Convention will be of most relevance to periods passed in the later years of undergraduate programmes, and in taught postgraduate courses, where the requirements for the corresponding diplomas lay down specific conditions of curriculum and duration of studies. (See, for example, Principle 2 in the appendix to Recommendation No. R (84) 13 of the Committee of Ministers to member States concerning the situation of foreign students, quoted above.)

13. The "previous agreements" referred to will normally be agreements between two or more institutions, made not for an individual student, but rather in the context of a joint programme concerning a number of students, and covering a period of several years. They may also be agreements between a number of institutions setting up a system of credit transfer, such as the ECTS scheme of the European Community.

Article 3

14. This article is very similar to articles in Conventions Nos. 15, 21 and 32. In the present case, mutual recognition by the institutions parties to the inter-institutional agreement is an assumption of the Convention. To the extent that the institutions are competent, such recognition is therefore effective. As the Convention can only lay obligations on states, in this case the obligation is limited to one of transmitting the Convention and commending it to the institutions. As pointed out above, the Convention covers a wide range of possible divisions of competence between the State and the institutions.

Articles 4 and after

15. These clauses are based on the standard pattern of final clauses of Council of Europe conventions. However, while the Convention has been prepared in the framework of the Council of Europe, it is open for signature by the States Parties to the European Cultural Convention, whether or not they are members of the Council. In addition, once the Convention has entered into force the Committee of Ministers is empowered to address invitations to accede to it not only to non-member States which are not Parties to the European Cultural Convention but also to the European Economic Communities.