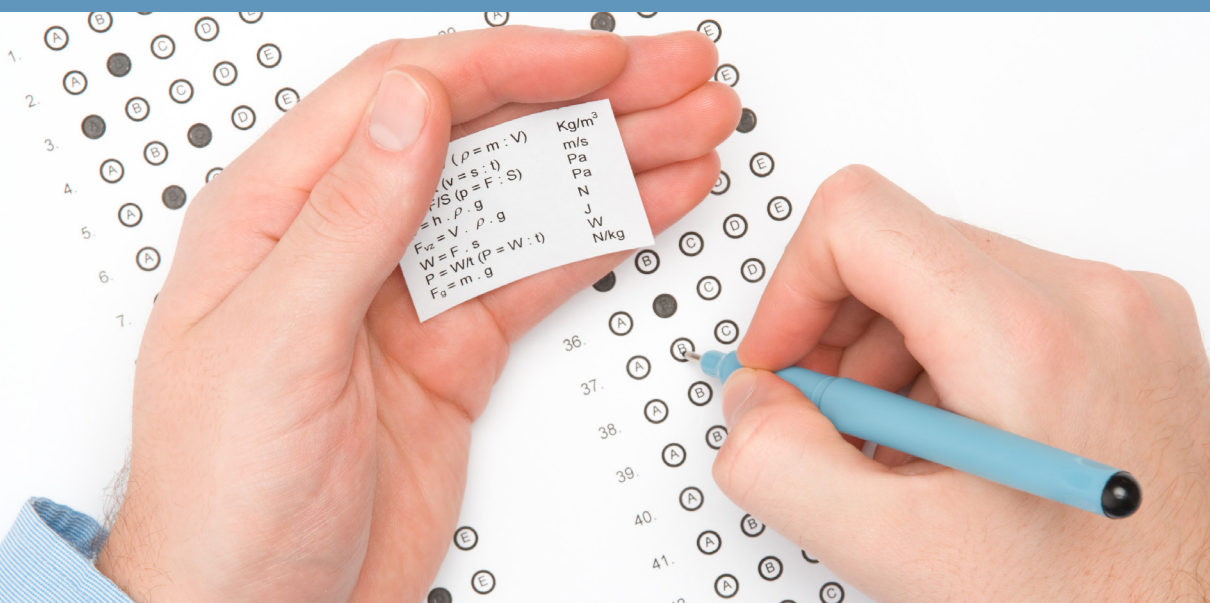


MEANS TO COUNTER EDUCATION FRAUD

Legislation, practices and instruments



ETINED
Council of Europe Platform on Ethics,
Transparency and Integrity in Education

Volume 7

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Introduction

The Committee of Ministers of the Council of Europe adopted Recommendation CM/Rec(2022)18 on combating education fraud (Council of Europe 2022b) and its explanatory memorandum on 13 July 2022. The recommendation is the result of four years of work by the Council of Europe’s ETINED Platform on Ethics, Transparency and Integrity in Education.

This comprehensive legal standard recognises the need for a unified European approach in this area. It includes European agreed definitions of education fraud, plagiarism and different types of fraudulent service providers, including “diploma mills”, “accreditation mills”, “visa mills” and “essay banks”.

It has four dimensions: prevention, prosecution, international co-operation and monitoring.

The text makes six main recommendations to Council of Europe member states:

- ▶ promote quality education by eliminating education fraud;
- ▶ protect pupils, students, researchers and staff at all levels of education from organisations and individuals engaged in selling (and advertising) fraudulent services;
- ▶ provide support for the implementation of preventive and protective measures, as well as for a culture of equality of opportunity at all levels and in all sectors of education and training and in the transition between these sectors;
- ▶ monitor technological developments that could support new forms of fraud;
- ▶ facilitate international co-operation in the field;
- ▶ support wide dissemination of the recommendation.

In anticipation of the adoption of the recommendation, the ETINED Working Group and the Secretariat of the Council of Europe sent a survey questionnaire to all members of the ETINED platform in May 2022 in order to collect comparable data on the issues covered by the recommendation and to assess the educational fraud practices of its member states.

The recommendation provides for the exchange of data between member states (see point 15):

Member States should facilitate and encourage the systematic collection of statistical data on the activities of fraudulent education service providers in a common format to be provided by the Council of Europe in order to stimulate and support international co-operation in the prevention of education fraud and to enable reporting and comparative studies.

The analysis of the results marks the beginning of a series of research papers covering the scope of the recommendation on combating education fraud. These papers will inform the work programme of the ETINED platform for the coming years.

The working group received 35 responses to the questionnaire, which contained 14 main questions covering participation in ETINED; statutes and rules; fraudulent activities in education; codes of conduct; digitisation; and assessment design.

Participation of ETINED delegates in meetings and activities

All respondents indicated that they attend ETINED meetings and/or are members in good standing.

Statutes and rules

Most member states have enacted or intend to enact legislation dealing with specific aspects of education fraud. In addition, the recommendation provides a comprehensive definition of education fraud in a single document. This should motivate member states to draft or review their legislation comprehensively, to analyse which areas are deficient and to make adjustments where necessary.

In Chapters 1 and 2, Professor Michael Draper, Deputy Pro Vice-Chancellor for Education at Swansea University in the UK and co-chair of the Welsh Integrity and Assessment Network, and Professor Dennis Farrington, former President of the University Board of the South East European University in the Republic of North Macedonia, examine the legal and academic responses to commercial contract fraud and essay mills.

Fraudulent activities in education

The first question in the survey asks whether respondents are aware of the existence in their own country of “education mills”, as they are called in the recommendation. The second question focuses on the level of awareness of education fraud in the education community. What is the role of the internet in enabling fraudsters to offer educational services?

In Chapter 3, their study of the role of ENIC–NARIC (European Network of Information Centres–National Academic Recognition Information Centres) in combating document fraud and diploma mills, Chiara Finocchietti, Director of CIMEA–NARIC Italy and ETINED delegate, André Hesselbäck, Senior Credential Evaluator of ENIC–NARIC Sweden and ETINED delegate, and Luca Lantero, Director General of CIMEA Italy and ETINED delegate, address these and other related issues.

Codes of conduct

One of the questions in the survey concerns the existence of codes of ethics in educational institutions. In Chapter 4, their contribution on the role of ethical codes, Luca Lantero and Chiara Finocchietti use the example of Italy to show that this issue is also closely linked to legislation and supervision.

Digitisation and assessment design

In Chapter 5, Erik Johansson, Senior Credential Evaluator at the Swedish Council for Higher Education (ENIC–NARIC), and Chiara Finocchietti discuss digitisation as a means of combating qualification fraud, while in Chapter 6, Philip M. Newton, Professor at Swansea University, examines how the risk of educational fraud can be mitigated through assessment design, awareness raising and training. In addition,

the various research papers also discuss plagiarism, protecting educational terminology, recognition, accreditation, qualification and monitoring.

In their responses and during their annual plenary meetings, several ETINED delegates have mentioned and indeed emphasised the need for collaboration and the exchange of information between stakeholders involved in education and enhanced monitoring. This publication aims to lay the groundwork for future research in this field.

Strasbourg, 2023

Villano Qiriazzi

Head of the Education Department

Chapter 1

Legal responses to education fraud

Michael Draper

Prevention through legislation and campaigns against contract cheating and essay mills

Background

A clear political mandate to fight fraud in education alongside corruption was given in the Final Declaration on governance and quality education from the Council of Europe Standing Conference of Ministers of Education, held in Helsinki on 26-27 April 2013. That mandate called for the creation of a pan-European network with a focus on:

- ▶ positive codes of conduct as a complement to anti-corruption and anti-fraud legislation for professionals who are active in education and research;
- ▶ capacity building for all actors;
- ▶ support structures (agencies for accreditation or quality assurance);
- ▶ sharing of best practices concerning fairness and transparency;
- ▶ developing a culture of democracy and participation based on transparency, fairness and equity.

From the outset there was a reference in the mandate to legislation or a legal response to corruption and fraud in education and research, among a range of other responses and objectives.

Recommendation CM/Rec(2012)13 of the Committee of Ministers to member states on ensuring quality education noted that education fraud can be distinguished from the wider issue of corruption in education, but its statement that “corruption is a real or potential issue in all countries and for all kinds and levels of education” is also true of education fraud. Recommendation CM/Rec(2022)18 on countering education fraud is therefore a direct consequence of the above mandate and arises from the work of the Council of Europe Platform on Ethics, Transparency and Integrity in Education (ETINED) set up as part of the follow-up to the Helsinki Ministerial Conference of April 2013.

Recommendation CM/Rec(2022)18 of the Committee of Ministers to member States on countering education fraud

(Adopted by the Committee of Ministers on 13 July 2022 at the 1440th meeting of the Ministers' Deputies)

The recommendation specifically addresses the adoption of legislation in relation to commercial contract cheating services and essay mills in the following provisions.

Recommendation 2 – Definitions

An “essay mill” (otherwise referred to as a provider of contract cheating services) is an organisation or an individual, usually with a web presence, that enters into contracts with students or their representatives to complete, in full or in part, one or more assignments (including student work such as essays, projects, theses and dissertations) for financial gain, whether or not the content is plagiarised, leading to a form of academic misconduct. For the avoidance of doubt, an essay mill does not include providers of private tutoring services lawfully operating within national legislation or regulations.

Recommendation 5 – Plagiarism and the use of plagiarised content

Member states should take measures within their national legislative frameworks to ensure, as far as reasonably possible, that education institutions prohibit and eradicate, through their internal regulations, education fraud through plagiarism and misuse of plagiarised, falsified or unverifiable materials in the appointment of, and promotion procedures for, academic staff, teachers and other education professionals.

Recommendation 7 – Legal frameworks, laws and practices

Member states should take all necessary and appropriate action to use existing legislation, guidelines or practices to eradicate education fraud and the activities of fraudulent education service providers. They should also consider introducing new legislation or policy measures where required and encourage all education institutions to adopt regulations consistent with that aim. In doing so, member states and education or training organisations should take appropriate steps to protect the rights of pupils, students, researchers and staff.

Recommendation 14 – International co-operation

Member states should co-operate in the fight against education fraud and in the prosecution of offences, or regarding any other forms of legal redress, so that any organisation or entity that carries out all or part of its business in a member state may be prosecuted or otherwise held to account for the provision of services related to education fraud; this applies even where the provision of, or contract for, such services takes place wholly outside the member state concerned and the benefit or advantage envisaged by the organisation or entity is expected to be received elsewhere.

In addition, member states should co-operate with international efforts to put a stop to the activities of fraudulent education service providers operating within and outside their borders, including those activities accessible through the internet or carried out by other means on their territories but originating elsewhere. This objective should be achieved through a process of monitoring national and transnational activities, exchange of information and co-operation, including legal enforcement through law-enforcement authorities and agencies. Member states agree to commit themselves to exchanging information through existing international frameworks.

Explanatory memorandum

The explanatory memorandum to the recommendation sets out the rationale for the recommendation and addresses the issue of essay mills as follows.

There is currently worldwide concern over education fraud, touching all member States and all levels of education. Within a generic description of “violation of academic ethics”, education fraud ranges from plagiarism by individuals, which may be treated as intentional or unintentional copyright infringement, the criminal offences of impersonation or identity theft, to the activities of organisations promoting essay mills (otherwise known as “contract cheating” or “academic custom writing”), visa mills, accreditation mills and diploma mills, with an intent to defraud. The purpose of this recommendation is to help to counter organised education fraud through directed national and international action, as these activities transcend national borders. It represents the collective will of member States to tackle serious issues of academic integrity.

Essay mills have complex business models, generating revenue through offering students ready-made or bespoke written assignments or dissertations in different languages, often circumventing anti-plagiarism technology and, ironically, with a sophisticated quality assurance process to ensure “value for money”. Peer-reviewed research findings on the business processes involved in essay mills suggest the use of highly sophisticated technology, and assignment writers may be located anywhere where there is internet access. Where member States have enacted legislation to deal with these abuses, detecting and prosecuting offenders may be difficult. In fact, legislation on its own is unlikely to provide a complete solution; emphasis needs to be placed on alternatives including programmes of public awareness raising. As in other fields, social media can be utilised positively to promote academic integrity; on the other hand, it can be misused to promote education fraud, so the international community must work with social media platforms in this endeavour.

It is important to note this specific qualification quoted above: legislation on its own is unlikely to provide a complete solution; emphasis needs to be placed on alternatives including programmes of public awareness raising.

A legal response to education fraud is not and can never be a panacea and is simply one response among others to ensure quality education for all and the robustness and integrity of awards and qualifications. Thus, the explanatory memorandum notes that awareness-raising actions should go hand in hand with effective legal remedies, through the enforcement and review of national legislation.

The explanatory memorandum emphasises that Recommendation 7 requires member states to take legal action against fraudulent education service providers.

- ▶ Member states need to make the establishment, licensing and operation of fraudulent education service providers within their jurisdictions illegal and prosecute these entities when possible.
- ▶ Nothing in the recommendation requires a member state to enact new legislation or prevents a member state from enacting new legislation.
- ▶ But it is important that legislation, where it exists, is effectively enforced.

Member states need to find the right balance between legal measures and other measures, in accordance with their national contexts.

Three questions on the legal position

There are therefore three aspects to legal responses to contract cheating and essay mills (the subject matter of this chapter) that require consideration.

1. What legislation currently exists in member states?
2. What is the enforcement policy in relation to that legislation: its impact or effectiveness including enforcement across state borders?
3. What legislation is planned in member states?

To assist with these questions, the working group of the ETINED platform drafted a questionnaire to member states, the responses to which would act as a baseline (see Recommendations 14 and 15 on international co-operation and data collection) to evaluate and monitor future activity (see Recommendations 16 and 17 on monitoring, evaluation and review). This questionnaire (ETINED 2022) was circulated on 20 May 2022, with outcomes to be reported to the ETINED plenary meeting in November 2022.

Existing legislation in member states relating to essay mills and contract cheating

As noted in the background (above) a clear political mandate to fight fraud in education alongside corruption was given in the Final Declaration from the Council of Europe Standing Conference of Ministers of Education on governance and quality education. This mandate acknowledged that legislation had a role to play in addressing education fraud in conjunction with positive codes of conduct and other forms of intervention.

An outcome from the second plenary session of the ETINED platform was a decision to develop a questionnaire for member states to determine the position on the prevalence of education fraud and the measures in place to prevent and address it. The results of that questionnaire were presented at the third plenary session of the platform in 2019 (ETINED 2019). Twenty questions in total were asked, with specific questions on legal and legislative measures.

The responses relating to legal and legislative measures are summarised below.

Question 5

Do you have legislation in your country which is specific to the fraudulent operations described above? (diploma mills, accreditation mills visa mills essay mills)

Response

The majority of respondent countries had specific legislation protecting all or part of the terminology related to the higher education system. However, a significant majority of countries did not have other specific legislation on diploma mills. Regarding document fraud, in almost all countries there was no specific legislation for the education sector, but this is covered by the legislation encompassing document fraud in general. Regarding essay mills, only one country reported having a specific reference in legislation. One other country reported the effort in the national sectoral anti-corruption plan to report this phenomenon by higher education institutions to the ministry.

Question 7

Do you think it is necessary or desirable to introduce or revise existing legislation to tackle education fraud? If so, why?

Response

The majority of countries reported that it would be necessary or desirable to introduce or revise existing legislation, with a range of different motivations that refer also to the different national contexts.

The rationale for countries that provided a positive answer was:

- ▶ the absence of a law, covering for instance the protection of institutional titles, fighting all forms of contract cheating and essay mills, or protecting individuals providing information (i.e. whistle-blowers);
- ▶ where the law at a national level already exists, adjustments could be made to harmonise the practices at national level in order to have a framework law on integrity in education to deal in a systematic, effective and organic way with all forms of education fraud (for instance preventing the creation of diploma mills, essay mills, etc.) and academic dishonesty (plagiarism, contract cheating, etc.), with a strong focus on prevention;
- ▶ revision of legislation to foster co-operation at an international level.

Question 8

If so, how could the Council of Europe help in this?

Response

Education fraud does not stop at national boundaries. Therefore the Council of Europe could assist at a policy level, mainly by providing a common policy framework: common legislative measures, a European convention on education fraud,

recommendations in the field of law on education fraud, monitoring enforceability of law, supporting and fostering the effectiveness of legislation at national level and co-ordinating a joint effort and action of countries.

Question 11

What are the main challenges and impediments (such as a lack of legislation that prevents you from effectively dealing with education fraud, lack of information online) that affect your procedures and limit their efficiency and effectiveness?

Response

There were a number of impediments reported, the main two being:

- ▶ lack of legislation;
- ▶ lack of information, referring to the limited possibility of accessing reliable data (official databases in order to check authenticity of documents, misleading information provided on websites of different typology of mills, etc.), to limited information sharing among relevant stakeholders and to the lack of data and statistics, but referring also to the rights and duties at institutional level when a fraud is detected.

Position in 2022

Legislation and rules

Is there in your country any legislation (primary or otherwise) dealing with any of the issues of education fraud as defined in the recommendation, for example “Plagiarism”; “Advertising of and promotion of education fraud”; “Legal framework, laws and practices”; “Codes of ethics”; “Education terminology”; “Public health and safety”; “Whistle-blowing”; “Use of digital solutions”; “International co-operation”?

If so, with which issues does it deal? Which issues are not addressed? Are there any plans to legislate in this area and when? If not, why?

Response

Three member states, the Republic of Ireland, Slovakia and the UK (England only), have legislation enacted specifically addressing essay mills and contract cheating.

Most other member states have legislation addressing some areas of education fraud as defined.

Only one member state, UK (Wales and Scotland), has plans to introduce legislation against commercial contract and essay mills.

Only one member state, Austria, has plans to introduce legislation relating to other forms of education fraud, i.e. whistle-blowing.

Education fraud activities

Are you aware of any of the following activities (as defined in the recommendation) within your country? Accreditation mills, diploma mills, essay mills, essay banks, visa mills.

If your answer is affirmative to any of these, please give as much detail as possible and a link to any relevant web pages or social media platforms.

Response

In total, 19 member states are aware of education fraud activity, including essay mills either generally or specifically occurring within the member state.

Advertising

What are the legal or other sanctions available to deal with advertising of education fraud in your country (please see Recommendation 6)? Please provide a link to the relevant documents.

Response

Replies show that 11 member states have legislation or laws that address some form of education fraud through advertising.

Summary

The above responses address questions 1 and 3 posed earlier (“Three questions on the legal position”) in this chapter.

- ▶ What legislation currently exists in member states?
- ▶ What legislation is planned in member states?

The position in 2022 is not significantly different among member states to that established in 2019. The reason for this may be partly that member states do not consider legislation to be justified within their national setting.

Justification for legislation: necessary and appropriate

It is acknowledged that enacting legislation requires political will and time within the context of competing legislative priorities applicable in and appropriate to national settings. Political will is also aligned with an accepted rationale or necessity for legislation, which again will be country-specific. However, there will be themes common to all countries and therefore a specific example of the justification and rationale for legislation in England and Wales is discussed next.

Justification for legislation in England and Wales

In 2019 a paper was produced for the UK Quality Assurance Agency for Higher Education (QAA) setting out the case for legislation (see Draper and Crossman 2019). This paper was produced by Professor Michael Draper and Gareth Crossman (former Head of Policy at the QAA):

The paper notes that:

[b]efore any consideration of potential legislative action, the fundamental question needing to be addressed is whether legislation to combat contract cheating and essay mills is justified. Unless limited to financial penalty only, criminal sanction carries the

potential for deprivation of liberty, and should only be considered if there is a societal need and a public interest to be served through criminalisation.

Consistent with the position adopted by the ETINED platform and the text of the recommendation, the authors noted that:

[a]ny form of academic misconduct or cheating poses a threat to the academic standards of ... higher education, and therefore to the reputation of ... higher education as a whole, and to the integrity of qualifications awarded to the vast majority of students who achieve their qualification entirely by legitimate means.

The paper observes that, despite a number of non-legislative interventions (such as guidance to higher education institutions and the National Union of Students, formal complaints around advertising to the Advertising Standards Authority, high-profile campaigns, new generation text-matching software adopted by higher education institutions and UK-wide academic integrity network co-ordination), commercial contract cheating services continued to grow.

Furthermore,

one common theme raised by higher education institutions is that when students are told they should not use essay mill services, they will frequently ask if they are illegal. This can place institution staff in a difficult position, explaining that the services they prohibit are perfectly legal. Indeed, many UK-based essay mill companies will use marketing techniques stressing they operate as "legitimate" businesses.

The paper argues that commercial contract cheating is a societal issue, and not simply an issue for higher education, because students who use these services will enter the workforce without the skills, training and knowledge necessary to be effective in the workforce. For example, in 2016 a national newspaper made Freedom of Information requests to 60 British universities whose responses to the requests showed that 1 700 nursing students had been caught cheating over the previous three years (Independent 2016).

There were also reports that some commercial contract cheating services were encouraging organised criminal activity because there was evidence of students being blackmailed, putting students at risk both before and after graduation with employers (see BBC 2018).

The paper concludes therefore that:

the introduction of legislation, coupled with the ongoing measures referred to above and the introduction of new generation plagiarism software, can help create a hostile environment for essay mills in which to operate. These are commercial entities, motivated only by profit. If their operations are no longer financially sustainable, they will cease business.

Legislation passed in England

The Skills and Post-16 Education Act 2022 originated in the House of Lords in the session 2021-22 and passed into law when it received Royal Assent on Thursday 28 April 2022.¹

1. See www.legislation.gov.uk/ukpga/2022/21/contents/enacted.

Within the act (which contains provisions on a range of skills and educational issues) are sections 26-30, which ban in England the commercial sale of assignment help and essays to students over compulsory school age, including the advertising of such services. Those sections of the act are:

Cheating services provided for post-16 students at English institutions

26. Meaning of “relevant service” and other key expressions

27. Offence of providing or arranging a relevant service

28. Offence of advertising a relevant service

29. Offences: bodies corporate and unincorporated associations

30. Interpretation of chapter

The proposed law was reviewed by two members of the UK QAA Academic Integrity Advisory Group, Gareth Crossman and Michael Draper, who note:

First, some caveats. Legislation a) will never be perfect and b) will never solve a problem alone. The reality is that most essay mills are based outside the UK, so would not be subject to domestic law. Even with UK based essay mills, it is likely that only a few would ever be prosecuted. It's worth noting that, unlike similar legislation in Ireland and Australia, prosecution powers do not sit with the regulator. The offences are free standing, so it would be for the police and CPS to initiate any prosecution. Realistically, it is unlikely that wholesale prosecutions of essay mills will ever be top of the policing agenda.

So with the “yes, but...” out of the way, will the new offence actually make a difference? We believe it will. A large part of the reason for this is that the offence is one of limited strict liability. A strict liability offence is one where the prosecution does not need to prove intent to gain conviction. This is highly unusual in UK criminal law, where intention is a standard element of any offence. (Crossman and Draper 2021)

Notwithstanding the fact that the offences are based on the principle of strict liability, meaning that successful prosecution simply requires the act of supply of a relevant service and does not require evidence of knowledge or intention on the part of the offender that an unfair advantage will thereby be given, it is not expected that there will be a significant number of prosecutions (THE 2022).

The perceived value of the new law is evidenced by the letter (UK Government 2022) that then Skills Minister, Alex Burghart, wrote to internet service platforms following the law coming into force.

The Skills and Post-16 Education Bill has become law. Through this act, the Government has legislated for landmark reforms that will transform post-16 education and skills, including criminalising essay mills.

As you may know, Essay Mills are online platforms that facilitate contract cheating. Contract cheating happens when a third party completes work for a student which is passed off by the student as their own work. Many essay mill companies use marketing techniques which indicate they are offering “legitimate” academic writing support for students. Reports also indicate that some essay mills seek to blackmail students who use these services. It is right that we have legislated against these insidious crimes.

It is now a criminal offence to provide or arrange for another person to provide contract cheating services for financial gain to students taking a qualification at a post-16

institution or sixth form in England, enrolled at a higher education provider in England and any other person over compulsory school age who has been entered for a regulated qualification at a place in England.

Similarly, it is now an offence for a person to make arrangements for an advertisement in which that person offers, or is described as being available or competent, to provide or arrange for another person to provide a cheating service. Importantly, the offence centres around the act of advertising to students, and for the offence to be committed it does not need to be seen by its target demographic.

There is now a strengthened, collaborative effort across the sector to tackle essay mills and we want you to be part of this campaign. Platforms such as yourself play an integral role in helping us to make the most effective use of the legislation; marketing and advertising are the lifeblood of any successful industry. We are aware that high numbers of essay mills have used your platform to promote their services to students in the past, paying for advertising to promote their companies. Essay mills are now illegal entities, and you should not carry their advertising. It is no longer a moral question; you will be facilitating an illegal activity. I ask you to do everything in your power to prevent the advertising of these unscrupulous practices.

Removing essay mill access to online marketing will seriously hamper their efforts to target vulnerable students and I implore you to do so following the introduction of this legislation. We must now all work together to capitalise on it. (UK Government 2022)

It has been also suggested that the legislation will help to change student attitudes around cheating behaviours and the nature of the conversation that their tutors have with them in relation to the importance of academic integrity (THE 2022).

Enforcement policy: England and Ireland

A law will only be effective if there is an effective enforcement policy and resources are made available to implement that policy. Linked to this is the nature of the penalty or outcome to be enforced.

In England that penalty is financial, a fine for commission of a relevant offence. Investigation and prosecution of that offence is a matter for the police. No further resources have been made available for such activity, and prosecution of essay mill companies will be one of many other priorities required of the police service. It is clear, given the letter of the English Skills Minister referenced above, that enforcement will be focused on the advertising of commercial services rather than the prosecution of individual companies. However, it is not yet clear whether the police will view this as a prosecution priority and this uncertainty may mean that action on referrals to social media and internet service provider platforms carrying advertising is left to individual institutions on a case-by-case basis, which is not ideal.

In the Republic of Ireland the penalty is a fine or imprisonment (up to five years) for an offence similar to that enacted in England.² Arguably, imprisonment of corporate officers might suggest a greater deterrent effect. However, since the enactment of legislation there have been no prosecutions of individual companies. This may

2. Qualifications and Quality Assurance (Education and Training) (Amendment) Act 2019, section 15, available at www.irishstatutebook.ie/eli/2019/act/32/section/15/enacted/en/html#sec15.

be because, unlike the strict liability offences now available in England, successful prosecution requires evidence of an intention to unfairly advantage a student, proof of which is a significant barrier to prosecution.

In Ireland the investigation and prosecution of offences is given to the state-funded further and higher education regulator: Quality and Qualifications Ireland (QQI). This has the advantage of prosecution being in the hands of a resourced and specialist body whose priority is to ensure the quality and integrity of awards in the Republic of Ireland. They have made it their business to monitor the advertising of commercial contract cheating services within their jurisdiction and have had considerable success at closing down the advertising of services to students on established social media and internet service provider (ISP) platforms without the need for formal prosecutions. No established ISP or social media platform wants to be associated with criminal activity and their content policies so provide. QQI work closely with advertising platforms to ensure this is the position on a continuing basis rather than simply time-consuming referrals case by case.

International co-operation

Commercial contract cheating services and essay mills are able to operate across national boundaries and can position themselves in a legal domicile of choice. This makes enforcement action and prosecution difficult if students are in one jurisdiction and the essay mill is based in another legal jurisdiction. Recommendation 14 therefore requests that member states co-operate in the fight against education fraud and the prosecution of offences, or in any other forms of legal redress, so that any organisation or entity which carries out all or part of its business in a member state may be prosecuted or otherwise held to account for the provision of services related to education fraud. This recommendation applies even where the provision of, or contract for, such services takes place wholly outside the member state concerned and the benefit or advantage envisaged by the organisation or entity is expected to be received elsewhere.

The ability to collect evidence is crucial to any prosecution. The UK's legislation on obtaining evidence from overseas is widely drafted and linked to official guidance on international co-operation (CPS 2022). Prosecutors can obtain evidence from overseas using mutual legal assistance (MLA). This takes the form of a formal International Letter of Request (ILOR) issued by a designated prosecuting authority or a court. MLA with EU member states (except Denmark and Ireland) has been replaced by the European Investigation Order (EIO), implemented in the UK under the Criminal Justice (European Investigation Order) Regulations 2017.³

A prosecutor is not always required to obtain evidence from overseas; often it can be obtained by investigators through police co-operation channels. This is often referred to as police-to-police informal co-operation or mutual administrative assistance (MAA). The appropriate mechanism to be used to obtain evidence from overseas generally depends on the type of assistance being sought and the domestic legislation of the country from which the assistance is sought.

3. [The Criminal Justice \(European Investigation Order\) Regulations 2017 \(legislation.gov.uk\)](https://www.legislation.gov.uk).

The UK Government has produced guidance for foreign authorities (UK Government 2012) on seeking evidence from the UK.

Conclusion and recommendations

In 2019 it was reported from the second plenary session of the ETINED platform that one of the main impediments to addressing education fraud was a lack of legislation. The legislative position among member states in 2022 is not significantly different to that existing in 2019.

The rationale for enacting legislation, and whether it is necessary and appropriate, will vary from member state to member state but its importance in supporting academic integrity is reflected in Recommendation 7, which urges member states to consider introducing new legislation or policy measures where required and also to encourage all education institutions to adopt regulations consistent with that aim. Reference should also be made to the explanatory memorandum (Council of Europe 2022c) to assist in the interpretation of Recommendation 7.

Member states that have introduced legislation in relation to commercial contract cheating services have taken a targeted approach so as to distinguish and differentiate them from general cases of fraud. An advantage to this approach is to allow simplicity in terms of framing an offence for prosecution.

In England this is assisted by making the relevant offences ones of strict liability. These offences require neither knowledge nor intention to act with a specific result of providing an unfair advantage to a student for a successful prosecution. This advantage is offset by penalties that require the payment of fines but not imprisonment of human agents. There is also a defence of due diligence available:

it is a defence for the defendant to prove, in relation to any of the matters specified that the defendant did not know, and could not with reasonable diligence have known, that an individual would use materials supplied to gain an unfair advantage.

In the Republic of Ireland successful prosecution of targeted offences can result in imprisonment of human agents but these are not offences of strict liability and require evidence of intention of giving a student an unfair advantage in order to establish a successful prosecution.

Member states considering the enactment of legislation in relation to commercial contract cheating services will need to address:

- ▶ whether legislation to combat contract cheating and essay mills is justified (necessary and appropriate) in accordance with the volume of activity and the nature of the threat to the credibility and quality of academic integrity and institutional awards in the priorities of the national setting;
- ▶ whether, if justified, the specific offences are determined to be desirable or necessary to enact according to national settings, and in particular whether an offence should be targeted at commercial services only and whether students, and the friends and family of such students, should be specifically excluded from the commission of an offence;

- ▶ what the burden of proof necessary to establish successful prosecution of offences is and whether a defence of due diligence should be available to a commercial company or organisation;
- ▶ the nature of the outcomes of a successful prosecution, whether a fine or imprisonment or both, and the deterrent effect of those outcomes. A fine may simply be viewed as a “business expense” by some commercial contract cheating companies if set at a low level. Hence the importance of holding individual corporate officers to account in addition to the business organisation;
- ▶ which national body will be responsible for the prosecution of offences and the resourcing and priorities assigned to that national body;
- ▶ the monitoring and evaluation of the effectiveness and impact of legislation in the national setting, and reporting of the outcomes of any such evaluation to demonstrate that effectiveness and to support deterrence, since legislation which is never or rarely enforced will simply be ignored;
- ▶ the process and procedures for international co-operation in evidence collection and for prosecutions of commercial contract cheating services and essay mill organisations that are legally based in another country.

Chapter 2

Case law on education fraud

Dennis Farrington

The ETINED questionnaire

Responses to the questionnaire developed by the ETINED Working Group of experts, and discussion at the ETINED Forum in November 2022, provided useful information on legal developments in the areas covered by the Committee of Ministers recommendation on education fraud (Council of Europe 2022b). The aim of this part of the research was to identify relevant issues that have been adjudicated by courts and tribunals worldwide and to draw attention to decisions that member states may find helpful in further development of legislation and practice, for example in prohibition of advertising by education fraud providers, and demanding and receiving money for education fraud. It is suggested that institutions should review their regulations to prohibit use of material created by third parties – including emerging artificial intelligence – in student assignments and assessment and to deal with the issue of “proxy sitting” of tests which are needed for admission or immigration. In addition, institutions are urged to check carefully all foreign qualifications, diplomas, etc. with intending students in person and not rely on agents who may misrepresent qualifications without the student’s knowledge.

An objective of the ETINED Working Group of experts was to identify: 1. the legislation which currently applies to education fraud, as defined in the recommendation; and 2. relevant decisions of courts and tribunals. This would improve our knowledge across the ETINED platform, and potentially identify some good practice, which would assist member states in updating their laws and regulations to ensure a broad consistency of approach to a cross-border phenomenon.

The ETINED questionnaire accordingly asked member states to provide up-to-date information about legislation, actual or planned, and any cases brought before national courts or tribunals. Not all responses provided information of this kind, partly because respondents had been delegated from a range of organisations, from ministries, quality assurance agencies, other national bodies and individual institutions, which did not all have the knowledge and/or expertise to respond fully. Some responses were followed up by the secretariat with additional questions, and further information was provided, both formally and informally, at the forum meeting in Strasbourg in November 2022. This chapter takes account of all responses as at 31 January 2023.

Albeit a partial response, this has been a very useful exercise, as previously the working group was aware of national legislation creating new criminal offences

on essay mills, advertising and related matters in only four jurisdictions within the Council of Europe’s geographical area: Austria, England, Ireland and Montenegro. These countries all provide good examples for other member states. Preliminary work on historical approaches to “cheating” in exams, prior to the modern era, also identified specific legislation in Italy (Law No. 475 of 19 April 1925, amended in 2000 in relation to essay mills) and some German *Länder*. So the information was limited.

Legislation, codes of ethics and case law

In respect of legislation, which is more fully covered by Professor Draper in Chapter 1, apart from the four member states named above, an increasing number of states have reported specific legislation or proposed legislation that goes beyond general provisions of a criminal code, for example in relation to copyright infringement (not a criminal offence in some countries) or fraud, mentioned by several member states.

Criminal law

Criminal prosecution for fraud might be available for illegal use of fabricated diplomas, for example to obtain employment or other paid services, although currently it is more likely that fraud of this nature, if it comes to light, will be the subject of non-criminal proceedings, especially in regulated professions, where there is a risk to the public from unqualified practitioners. Examples include English High Court cases under the Medical Act 1983: i. *Ranga v. General Medical Council*,⁴ an unsuccessful appeal where a medical doctor was struck off the register in 2022 for, *inter alia*, using a contract cheating service to prepare her MSc research essay; and ii. an earlier and also unsuccessful appeal in *Hussain v. General Medical Council*,⁵ where not only was plagiarism a factor but, in the judgment of the GMC, another factor was falsely claiming the award of Bachelor and Master degrees in pharmacy and pharmacology (despite holding legitimate UK Bachelor and Master degrees in chemistry, a PhD in pharmacy and pharmacology, and a medical degree from Poland). In the UK, 425 potential “striking-off” cases have been heard since January 2022, a small number of which relate to disputed qualifications.⁶ In Ireland, 14 cases were heard by the Medical Council in 2022, although none appeared to relate to qualifications.⁷ Probably there are similar regulatory decisions in other member states, but they are not easily accessible, if at all.

Codes of ethics

In the majority of countries, codes of ethics dealing with issues such as plagiarism or misrepresentation of work have been adopted by institutions, in some cases (Armenia, Kosovo*, Montenegro, Serbia) following assistance from the Council of Europe as detailed

4. [2022] EWHC 2595 (Admin).

5. [2014] EWCA Civ 2246.

6. [Medical practitioners hearings and decisions – MPTS \(mpts-uk.org\)](https://www.mpts-uk.org/).

7. [Medical Council – 2022](https://www.gmc-uk.org/).

*All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

on the ETINED website (ETINED 2023). Some countries report that only self-regulating (autonomous) institutions are responsible for dealing with education fraud, and in such countries it is unlikely that any cases will reach the courts or tribunals, unless a student or staff member challenges a decision of an institution. It is, however, not clear in such circumstances how institutions can deal with education fraud providers, other than by penalising students for using them – so engaging an institution’s student disciplinary regulations – or by preventing physical advertising of education fraud services on their premises simply by taking advertisements down.

Awareness

A minority of countries (some of which emphasise a strong culture of educational integrity) are not aware of any internet-based education fraud providers operating in their jurisdiction – but they may be operating undetected. Some countries are actively researching the issue. Consumer protection laws are available in some member states to deal with misleading advertising, but there are no reported cases (more accurately, no accessible reports). However, more than 20 organisations (which may or may not be related to, or part of, wider organised crime) currently advertise fake diplomas online, producing authentic-looking documents from a wide variety of institutions in Europe, the United States and other countries. All the organisations state that their documents are indeed fake and should not be presented as genuine, but that places a heavy burden on employers and others to verify the credentials, using services like HEDD in the UK (for UK-based institutions).

If indeed fake documents are presented as genuine or individuals claim non-existent qualifications, then, as noted above, court or tribunal action may follow – or an individual may resign, voluntarily or involuntarily, to avoid public exposure. It seems clear that preventing advertising of essay mills on site is one way of reducing their usage, but blocking advertising on the internet is only possible if there is specific legislation, which of course may be problematic and may conflict with the freedom of institutions to regulate themselves.

Germany

Desk research has found that, in Germany, anyone who claims to hold academic, state or ecclesiastical degrees awarded by universities not recognised by the state, or acquired through the purchase of titles, is liable to prosecution under s.132a of the Criminal Code ([misuse of titles, job titles and badges](#)); s.127 also penalises the operation of criminal trading platforms on the internet, and s.267 penalises forgery of documents. More generally the use of fake qualifications to obtain employment is treated as a civil matter, and has been for some time – for example, in 2010 in *A v. (1)B and (2)C*⁸ where the appellant had presented two bachelor’s degrees and a doctorate, all of which were fraudulent; also note the cases referenced under “Criminal law” above.

8. [2010] EWCA Civ 1378.

Other approaches

In some member states where there is no specific legislation, quality assurance agencies and other regulators and institutions have taken steps to address the issues, for example by requiring or promoting the adoption of codes of ethics, but criminal offences are normally created by primary legislation. Where in modern times cases of education fraud in the broad sense have been considered within the institutional framework, if students are involved (for example, using essay mills, cheating in exams or assignments, plagiarism, exam proxies) any unresolved cases at institutional level may be within the jurisdiction of a ministry, an ombudsperson, an agency or an independent adjudicator's office.

Other case law

In other case law, first of course there are limitations on what can be deduced from reported cases, which can only represent a fraction of what might in fact be a major problem. Many cases, particularly employment disputes, are settled without any intervention by courts or tribunals; only high-profile cases involving politicians, university rectors and the like may attract the attention of the media. Criminal prosecutions depend on public prosecutors bringing cases in accordance with the criminal law and practice of the member state. Civil cases generally arise as appeals from the actions of regulatory bodies (in immigration cases, medical councils) or institutions (student/staff disciplinary procedures).

WorldLII (the World Legal Information Institute) reports cases which have reached the courts and tribunals and which involve aspects of education fraud. The institute covers higher courts and some first instance reports in Commonwealth jurisdictions (which include a few Council of Europe member states) and Ireland, plus the European Court of Human Rights, which hears some education-related cases, and the EU courts, which do not, except in limited circumstances such as recognition of qualifications. These are all provided in English, with the addition of French-language cases in Canada and the official languages of the EU. There is no similar multinational database covering non-English speaking jurisdictions or non-Commonwealth member states.

Légifrance provides access to cases in France, in French. While in France there are a number of cases where students have successfully appealed against findings of plagiarism on procedural grounds, there appears to be only one recent case (2021) of finding an employee's dismissal fair due to presentation of a falsified diploma in a medical field,⁹ one of the important "public safety" elements mentioned in the recommendation (cf. the English cases cited in notes 3-5 and 7 above).

Some other countries may maintain databases in their own languages, but there is no easy access to them. The recent (2022) judgment of the General Court of the EU, *DD v. FRA (Civil Service- Temporary Staff – Disciplinary regime – Judgment)*,¹⁰ was an unsuccessful appeal against dismissal for, *inter alia*, plagiarising documents

9. CAA de LYON, 3ème chambre, 30/06/2021, 19LY01684.

10. [2022] EUECJT 470/20.

published by the Council of Europe. Occasionally cases brought in a completely different area of law reveal the existence of essay-writing services provided by individuals. For example in 2017 there was *Diaz v. Karim*,¹¹ where the claimant Dr D, an academic at two UK universities, “supported himself primarily by helping students, for payment, to write their dissertations” although he denied that what he provided offended against academic integrity.

In the United Kingdom in 2006, an essay-writing service “Academic Answers Ltd” (which is still operating under different names)¹² successfully and legally obtained under internet domain name rules a transfer of an “abusive registration – ukessays.co.uk” which was affecting its business model as (what would now be considered) an essay mill.¹³ More recently, there have been a number of cases before the immigration tribunals and a few reaching the Upper Tribunal, most recently in 2022, and the court of appeal, dealing with a phenomenon called “proxy sitting” of examinations – the written examination being taken by someone other than the student her/himself – for the Test of English for International Communication (TOEIC), resulting in most cases in students being denied visas or renewal of visas.¹⁴

In 2022, the Upper Tribunal¹⁵ referred to “widespread cheating in tests of English needed for immigration purposes”. One report suggested 2 500 cases. In one case, a college, now closed, was itself found to have actively encouraged proxies of this kind, in return for cash. In addition, that college issued “fake” (in the sense of unauthorised) postgraduate diplomas in business management and IT, so in that sense it was a “diploma mill”.¹⁶ Relying on such “diplomas” was a false representation according to immigration rules. Unfortunately, the institution concerned was an otherwise recognised institution at the time. As colleagues commenting on the then draft recommendation pointed out, sometimes otherwise legitimate institutions may engage in dubious activities. The recommendation refers to the dangers posed to member states of such cheating. In some cases the licence to sponsor students has been withdrawn.¹⁷

11. [2017] EWHC 595 (QB).

12. Now trading as allanswers.co.uk, ukessays.com or ukdiss.com, alongside specialised sites offering essays for nursing, law and business students. Advertising such services may now be illegal under s.28 Skills and Post-16 Education Act 2022.

13. *Academic Answers Ltd v. Jason* [2006] DRS 3670 (7 August 2006).

14. *R. (Sood) v. Secretary of State for the Home Department* [2015] EWCA Civ 83; *R. (Mahmood and Ali) v. Same* [2015] EWCA Civ 744; *R. (Gazi) v. Same* [2015] UKUT 327; *SM and Qadir v. Same* [2016] UKUT 229; *Ahsan v. Same* [2017] EWCA Civ 2009; *Md Aman Hossan v. Same* [2021] UKAITUR HU 158722019. Also, the appeal cases *Immigration Officer v. Rangarajan and Sommasundra Iyer* IA/47122/2014 and *Secretary of State for the Home Department v. Ali* [2016] UKAITUR IA000122015.

15. *DK and RK v. Secretary of State for the Home Department*, Migrant Voice (Intervener) [2022] UKUT 112 IAC.

16. *NA and Others* (Cambridge College of Learning) Pakistan [2009] UKAIT 00031. This decision contained a very detailed analysis by the tribunal. See also *Khan and Tabassum* (Cambridge College of Learning: Postgraduate certificates) Bangladesh [2011] UKUT 249.

17. For example, *R on the application of London St Andrews College v. Secretary of State for the Home Department* [2018] EWCA Civ 2496.

Australia

A decision which may influence the English and other common-law courts in determining any cases brought under relevant legislation is *Tertiary Education Quality and Standards Agency v. Telstra Corporation Ltd*¹⁸ where in 2021 the Federal Court of Australia, acting under the 2020 amendments to the TEQSA Act 2011, ordered carriage service providers to block access to two websites offering assignments online. The 2020 amendments were one response to the MyMaster cheating scandal of 2015. This type of legal action depends, of course, on the enabling legislation, and something similar to the Australian law could be adopted by member states.

In an Australian publication in 2017, Steel¹⁹ raised the issue of legal consequences for students paying essay mills, potentially a criminal offence. This article examined a range of offences that students and contract cheating services could be committing, including fraud, forgery and conspiracy. Also in Australia there was an attempt in 2019 (i.e. before the legislation of 2020) at judicial review of a university's decision to fail a PhD candidate who admitted to purchasing his thesis from an online essay company that was mentioned in the *Telstra* case. A 252-paragraph judgment dismissed the claim in both administrative (alleged unfair and unreasonable treatment) and contract law. This decision of the Supreme Court of New South Wales²⁰ takes into account earlier Australian and English cases, including those relating to academic judgment.

Here the prohibition on use of third parties was contained in the university's regulations, and was not at that time in federal or state law. This may encourage higher education institutions in Europe to ensure that their regulations do indeed prohibit the use of third-party material and, as recommended by ETINED, in doing so take account of developments in technology which enable essays and papers of many kinds to be generated using artificial intelligence platforms such as ChatGPT (Chat Generative Pre-trained Transformer), a [chatbot](#) launched by [OpenAI](#) in November 2022.

Court cases in Australia relating to diploma mills date back to 1892, when a person who had been authorised to practise as a doctor in New South Wales was found to have a diploma issued by a fraudulent US institution "which existed solely for the sale of diplomas" (*Ex p Bouchier* [1892] NSWLawRp 27). The Medical Board registered B as a legally qualified medical practitioner and for several years his name was published in the annual list of such practitioners (and he practised as "a doctor and vaccinator"). Afterwards the board discovered strong grounds for supposing that the diploma upon which B was registered had been obtained from a fraudulent American institution which existed solely for the sale of diplomas, and thereupon they discontinued the publication of his name in the annual list. The court refused to issue a mandamus to compel the board to continue the publication of B's name in the annual list.

18. [2021] FCA 1202.

19. A. Steel (2017), "Contract cheating: will students pay for serious criminal consequences?" UNSWLRS 73, available at <http://classic.austlii.edu.au/au/journals/UNSWLRS/2017/>.

20. *Alajmi v. Macquarie University* [2019] NSWSC 1026.

In 2021 the Supreme Court of South Australia in effect declined to interfere with a decision to revoke the assessment of student E's qualifications, based on the fact that the US "university" which allegedly awarded a diploma to E was also in fact a diploma mill.²¹ Also in Australia, there are multiple cases of denial of visas, approved by migration tribunals, based on fraudulent documentation,²² although in some cases visas have been reinstated where students have demonstrated that their school certificates had been "doctored" by agents in India without their authority, in the process of securing college places in Australia²³ or where a "fake" institution in India was missing from the equivalent of an "avoid list" ("blacklist").²⁴ It is not only in relation to higher professional qualifications: there is a case where a visa was called into question when the applicant produced false information about his bricklaying qualifications from North Macedonia.²⁵

India

In India, cases have arisen in which students seek to enter the medical profession based on foreign "qualifications" which turn out to be unrecognised and, in some cases, bogus – particularly, according to the case reports, from certain former USSR countries after the USSR's disintegration. This is detailed in the discussion by the Supreme Court of India in a case where a student unsuccessfully challenged the validity of the relevant regulations.²⁶ Also in India, there has been criticism of "coaching classes" which, in the words of a judge, "are just befooling and cheating students with tall claims by flashing through advertisements and brochures, etc that their classes are achieving 70% to 90% or 100% results". While the organisations offering such classes appear to be legal, nonetheless the Consumer Disputes Commission would not enforce a non-refundable clause against the body in question.²⁷

Other information and literature

In the UK, the media have recently reported on organisations offering, for a fee, assistance with writing the "personal statement", which is currently an integral part of the undergraduate applications process managed by the Universities and Colleges Admissions Service (UCAS), which provides advice on writing a statement. As candidates are not routinely interviewed by most institutions, it is not easy to establish whether the statement is written by the individual without assistance. Personal statements are to be abolished in 2024, replaced by a multi-question form.

21. *Ejuyitsi v. Board of Examiners* [2021] SASC 65.

22. For example, *Abdul, Rauf* [2004] MRTA 7024 (28 June 2004), an unregistered institution and course; *Sun (Migration)* [2019] AATA 1581 (8 February 2019), fake certificate and transcript.

23. For example, *Mehtab (Migration)* [2022] AATA 2042 (18 June 2022); *Simran (Migration)* [2022] AATA 2085 (18 June 2022).

24. *Juneja (Migration)* [2019] AATA 3929 (14 June 2019).

25. *Risteski (Migration)* [2018] AATA 4112 (27 August 2018).

26. *Avarinth R.A. v. The Secretary to the Government* [2022] Civil Appeal No. (S) 35853586.

27. *Frankfenn Institute of Air Hostess Training v. Rana* [2022] State Consumer Disputes Redressal Commission Appeal No. 30 of 2021.

In addition to the academic literature and conference papers published within the European Higher Education Area (EHEA), which we have already considered in preparing the recommendation and its explanatory memorandum, there is a corpus of Australian literature about responses to cheating generally, including constitutional and legal difficulties in revoking degrees on grounds of misconduct (where cases cited go back to 1723,²⁸ although that and a number of subsequent cases were about due process). Recent literature refers to the work of Newton et al. in the UK. It is suggested that it is now much easier to revisit past assignments since they are submitted electronically and retained for longer.

Other recent literature describing attempts to deal with education fraud, notably cheating and plagiarism, is published in English principally in the *International Journal for Educational Integrity (IJEI)*.

In one article in 2021,²⁹ the Australian authors (J. Cutri et al.) sought to reframe the view of academic integrity away from something to be enforced (for example, by prohibiting academic cheating services) towards developing an academic skill. Some recent Australian immigration cases noted earlier, where challenges arose to ministerial revocation of visas for academic misconduct, referred to cultural differences between the Australian or “Western” model of educational ethics and those of some other countries, notably in South-East Asia. Such cultural differences were noted in an unsuccessful claim in 2021 in the Federal Circuit and Family Court of Australia.³⁰ The courts and tribunals have to apply the Australian legislation and legal principles but it is clear from the case reports that some students could not understand what they had done to deserve visa revocation. A similar difference in understanding may also apply to some extent across the wide variety of education systems present within the Council of Europe’s geographical area, although there does not appear to be any literature on this issue.

In another article in 2020,³¹ the Kosovo* authors (S. Shala et al.) investigated contract cheating (“essay mills”, etc.) in their country and what legal solutions might be required to address it. However, although the Kosovo* authorities and institutions seemed willing to tackle the problem, the authors found very little hard evidence because individuals would not report cases (the reasons are not stated).

Conclusions

It appears we can learn from those cases which have publicly exposed education fraud in the UK, Australia, India and France, with possibly other cases mentioned by a few respondents to the questionnaire, although of course this is the “tip of the iceberg” as many cases will be resolved without court action, will be unreported in accessible databases or will simply be undetected. The results of this research should

28. *The King v. The Chancellor, Masters and Scholars of The University of Cambridge* (Doctor Bentley’s Case) (1723) 1 Str 557.

29. *IJEI* (2021) Vol. 17 Article 8.

30. *Sangthaworn v. Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* [2021] FedCFamC2G 171.

31. *IJEI* (2020) Vol. 16 Article 11.

encourage those member states which have not already done so to legislate to ensure as far as possible that advertising by education fraud providers is prohibited, both physically and virtually. Demanding and receiving money for education fraud should be considered as a criminal offence. They should also encourage institutions to review their regulations to prohibit the use of material created by third parties in student assignments and assessment and to deal with the issue of “proxy sitting” of tests which are needed for admission. In addition, institutions are urged to check carefully all foreign qualifications, diplomas, etc. with intending students in person and not rely on agents who may misrepresent qualifications without the student’s knowledge.

There is still some room for improvement in the sources which underpin this work as access to specific country non-English language databases is unavailable. If ETINED colleagues could help by directing us to sources other than WorldLII and the journals specialising in academic integrity, that would help in the further development of the research and in producing further recommendations to help member states in their continuing efforts to suppress education fraud.

Chapter 3

The role of ENIC–NARIC networks in countering diploma mills

Chiara Finocchietti, André Hesselbäck and Luca Lantero³²

Context

This chapter is framed in the context of the recommendation on countering education fraud (Council of Europe 2022b). Starting from the definition of education fraud and education fraud providers contained in the recommendation, our contribution provides an overview of the approaches to countering diploma mills and education fraud by ENIC–NARIC networks and their co-secretariats, in particular the Council of Europe.

It focuses on diploma mills and their “supply chain”, such as accreditation and evaluation mills. The role of ENIC–NARIC networks is explored across the three dimensions of the recommendation, namely prevention, international co-operation and monitoring. Finally, two appendices are provided, one listing resources developed by the ENIC–NARIC networks and one with evidence from the ETINED 2022 baseline survey.

The ENIC and NARIC networks

Two international networks connect a number of national information centres for the recognition of qualifications.

- ▶ The NARIC (National Academic Recognition Information Centres) network was created in 1984 by the European Commission, to implement a decision of the European Council of Ministries of Education. The main purpose of the network is to connect information centres designated by national authorities in each EU member state and in other European countries.
- ▶ The ENIC (European Network of National Information Centres on academic recognition and mobility) network connects national information centres of the states party to the European Cultural Convention or belonging to the UNESCO Europe and North America Region.

32. The authors wish to thank Allen Ezell, FBI agent (retired), for fact checking and background information on Axact for the case study, and Francesca Villa, senior credential evaluator at CIMEA, for her support in quantitative analysis of data for Appendix 3.2.

Prevention and information provision

As part of their mission as national information centres, and in line with the Lisbon Recognition Convention, the ENIC–NARICs provide transparent, authoritative and accurate information on higher education institutions and qualifications belonging to their national higher education systems.

The ENIC–NARIC networks also manage a joint website where, selecting the country of choice, the contact details of each national centre become available, together with general information about each national higher education system. Lists of accredited institutions are published on a country-by-country basis. Recently, a new section has been added with information on the procedures to verify the authenticity of qualifications in each system.

ENIC centres are the main source of information used by credential evaluators about bogus institutions, since the lists uploaded on the website are the first step towards identifying both accredited and non-accredited institutions.

Information provision is key to prevention of the phenomenon, providing prospective students, national authorities and the general public with up-to-date information on official higher education institutions.

Furthermore, many centres keep internal lists of unrecognised institutions and diploma mills, not only those operating in their territory but also in other countries.

In the 2022 baseline questionnaire for ETINED consultation, 16 out of 35 respondents provided references in their answer to the ENIC–NARIC centres and network.

As part of their activity of information provision, and co-operation with national authorities in spotting fake institutions, a number of ENIC centres over almost 30 years have had to face legal issues. Diploma mills often behave very aggressively, and one of their usual characteristics is to have lawyers at their disposal to intimidate anyone they perceive as an obstacle to their business. For this reason many diploma mills have brought lawsuits against ENIC centres, which have had (and still have) to defend themselves against these companies. The topic of legal implications and of “protection” of civil servants and ENIC–NARIC officers against diploma mills remains a sensitive one.

International co-operation

Data collection, evidence-based analysis and research are crucial in combating the phenomenon. Many providers of fraudulent services can operate in one or more states while being located in another. International co-operation is considered as essential in this regard, as a way to exchange information between countries and to mutually support each other in countering the phenomenon. Co-operation has been an asset of the ENIC–NARIC networks, and of its co-secretariats – the Council of Europe and UNESCO for the ENIC network, and the European Commission for the NARIC network – since their beginning, as the following brief historical excursus will show. The focus here is particularly on the role of the Council of Europe.

Historical overview: the role of the Council of Europe

In 1986, the Council of Europe published a list of institutions awarding qualifications that were not officially recognised in Europe. The document was drafted in Strasbourg on 10 October 1986 by the Secretariat of the Direction of Education, Culture and Sport, Documentation Section of the Council of Europe. The publication was entitled: "Provisional list of institutions of higher education the diplomas and degrees of which are not in general officially recognised in Europe". This document was drafted in preparation for the meeting of national experts from the national centres for information on academic recognition, scheduled in Strasbourg on 1 and 2 December 1986. Recipients were requested to keep the existence of such a document strictly confidential, because it was targeted at experts only. The document contained more than 700 non-recognised institutions operating in the higher education sector, organised by country. The countries with the highest number of irregular institutions were the US with 330, the UK with 150, Italy with 120, and France and Switzerland with 34.

On the occasion of the 10th meeting of the ENIC network (at that time called NEICS – National Information Centre on academic mobility and equivalence), held in Lisbon on 25-26 May 1992, a "first discussion draft for a possible recommendation on academic credentials" was presented. In the appendix of the draft recommendation, the principles for the "formulation of policies on academic credentials other than those awarded by recognised national institutions of higher education" are listed.

In the document, the focus was on the growth of private non-recognised higher education institutions, and on the need for member states to have a minimum level of regulation of standards of the credentials awarded by all higher education institutions. The scope was to maintain mutual confidence between the higher education systems of member states. The appendix covers the prevention of malpractice and the encouragement of good practice, international co-operation and the roles of the Council of Europe and of the ENIC network.

The Council of Europe also set up a working party on non-recognised institutions of higher education, which presented a preliminary report at the second joint meeting of ENIC and NARIC networks in 1995. The report contains a set of recommendations on the following topics:

- ▶ legal protection of the term "university" and rules for the award of academic degrees;
- ▶ a system of quality assessment (accreditation);
- ▶ criteria for the recognition of private institutions of higher education and/or their courses (criteria that range from the facilities of the institutions and a sufficient number of qualified staff to the quality of curricula and length of courses);
- ▶ information to be collected and disseminated regularly (role of the Council of Europe Secretariat), which includes the collection of relevant national higher education legislation, descriptions of country accreditation or quality control

systems, lists of public institutions of higher education, lists of recognised private institutions, lists of degrees offered in the country and a description of the role of the ENIC centre in the country;

- ▶ recognition of non-European, in particular of (US) American, private institutions;
- ▶ degrees and diplomas offered on the basis of co-operation agreements between two or three institutions;
- ▶ degrees and diplomas in foreign languages and misleading translations.

In 1996, 10 years after the first confidential list of non-recognised institutions, the Council of Europe published a second bulletin, still for internal use only. In the new version, the total number of institutions doubled: from 700 to almost 1 300. The countries with the highest number of irregular institutions remained unchanged: the USA (more than 400 institutions), the UK (195 institutions), Italy (143 institutions), Switzerland (97 institutions) and France (45).

Unfortunately, the 1996 list came into existence just prior to the signing of the Lisbon Recognition Convention and the creation of the ENIC and NARIC Networks. Canadian, United States and UK national authorities had not been consulted in drawing up the list. After considerable discussion among ENIC and NARIC authorities, the 1996 list was formally withdrawn in 1997 due to nearly 60 legitimate and recognised institutions having been placed on it in error. This episode helped lead to the policies of publishing so-called “whitelists” of recognised institutions and quality assurance agencies rather than so-called “blacklists” of bogus providers, and to greater co-ordination among national authorities.

Historically, one typical modus operandi of diploma mills is to claim accreditation by international organisations, UNESCO and the Council of Europe above others. For this reason, both organisations published on their respective websites a disclaimer where it is made clear that the organisation is not involved in granting accreditation to higher education institutions.

More specifically, later on the website of the Council of Europe, this official statement appeared: “The Council of Europe does not recognise higher education institutions”.³³ In this statement the Council of Europe stresses the fact that it “does not recognise or in any other way bestow legitimacy on any higher education institution, programme or provision”, since institutional recognition normally falls within the competence of national authorities. The same statement touches upon the topic of international, transnational or cross-border education, recalling the principles of the Lisbon Recognition Convention “Code of Good Practice in the Provision of Transnational Education”. Finally, it underlines the precautions that students should take when verifying the status of an institution, programme or provider before they decide to enrol in a higher education programme.

33. See www.coe.int/t/dg4/highereducation/Recognition/Recognition%20disclaimer_EN.asp, accessible with Wayback machine at <https://web.archive.org/>, as evidence of page existence since 2006. It quotes the 2001 Code; for the 2007 update see www.enic-naric.net/fileusers/73_Revised_Code_of_Good_Practice_TNE.pdf.

Such initiatives provide evidence of the perception of the increasing threat that diploma mills represent to higher education internationally and the steps taken to counter them by the Council of Europe and ENIC centres.

Discussion in the ENIC–NARIC networks from 1996

In the years after 1996, the landscape evolved with the adoption of the Lisbon Recognition Convention in 1997, the beginning of the Bologna process in 1999 and the official launch in 2001 of the ENIC–NARIC website and the activities of the ELCORE (Electronic Core Information on Recognition) working group.

In parallel with these developments, looking at the reports of ENIC–NARIC annual joint meetings from 1996 onwards, the discussion on diploma mills evolved in the networks, moving from diploma mills as such to the discussion of quality assurance, (quality) transnational education, transparency and accessibility of reliable information, and online education. The discussion led for instance to the adoption of the Code of Good Practice in the provision of Transnational Education in 2001, revised in 2007, that in turn became an important document in the drafting of the UNESCO–OECD *Guidelines for quality assurance in the provision of cross-border higher education*, adopted in 2007.

The topic of diploma mills appears again on the agenda of an ENIC–NARIC joint meeting in 2008. One of the reasons for the topic coming back was the proliferation of online diploma mills and bogus institutions. The World Wide Web was publicly launched in 1993, making it possible to offer transparent information online, but also contributing to a change in the landscape of higher education. Within 15 years the web offered new opportunities for established “traditional” institutions to offer online programmes, for new “distance learning” institutions to be developed and for diploma mills to move their business online.

In 2008 the discussion at the ENIC–NARIC joint meeting (ENJM) focused on three key points: the distinction between legitimate non-recognised institutions, bogus institutions and diploma mills (and the intermediate categories); the reasons why it is not possible to keep an international official list of diploma mills; and the available resources to spot them. Among the problems identified were:

- ▶ the impossibility of publishing a complete list of all diploma mills, because they continually arise, disappear and pop up again with a totally different name;
- ▶ if they are not “blacklisted”, they will use this fact to claim that they are legitimate; and
- ▶ some diploma mills and/or bogus universities use a similar name to that of a real institution, so publishing it can damage the accredited institution.

The topic was again on the agenda of the ENJM the following year, with the aim of discussing how the networks should work on this subject, the final recommendation being that the issue should be considered for a parallel breakout session during a future joint meeting, to allow for a detailed reflection on how the networks might formulate a consensus approach to the issue.

This was the case in 2010, when the topic of countering diploma mills was discussed during a working group of the ENJM. After the presentation of an EU-funded NARIC project on the topic (CIMEA 2010), there were four main outcomes of the discussion:

1. the increasing complexity of the phenomenon, with “traditional” bogus institutions existing alongside the validation of non-recognised institutions by recognised institutions located in another country, accreditation mills, etc.
2. the decision to use public “whitelists” instead of “blacklists”, because of the risks associated with the latter;
3. the need to discuss the possibility of gathering the wealth of information developed at national level more systematically and making it available to the whole of the networks, through the joint website for example;
4. exchange of information in order to clearly define the role and responsibility of public authorities and ENIC–NARIC centres when dealing with or facing diploma mills.

The topic is part of the European Area of Recognition (EAR) manual (ENIC–NARIC 2020), discussed at the ENJM in 2011 and first published the year after, with its use recommended in the Bucharest communiqué signed by European Higher Education Area Ministers in charge of higher education in 2012. The EAR manual has one chapter dedicated to non-recognised but legitimate institutions (Chapter 16), and one to diploma and accreditation mills (Chapter 17).

Diploma mills, document fraud and verification were again topics for workshops at the ENJM between 2016 and 2019 and in 2022. In these years the results of three EU co-funded projects (FRAUDOC, FraudSCAN and FraudS+ – see Appendix 3.1) were presented, with links to quality assurance, a focus on awareness and the involvement of students and the academic community. In parallel, since 2012 the discussion on digitisation as a strong way to counter fraud has been exponentially growing in importance.

Other instruments for international co-operation among ENICs

Active international co-operation is seen in forums, training and international projects. Together with the annual joint meeting of the two ENIC and NARIC networks, an important forum for exchange of information and co-operation is a listserv where credential evaluators from the ENIC–NARIC centres can ask questions, request information and advise on recognition issues.

The listserv plays a significant role in the quick and timely exchange of information on diploma mills and education fraud providers. Just as an example, in 2017 the listserv was used to signal the “interesting” case of the owner of an unaccredited institution that created a fake version of the *International Handbook of Universities*, normally published by the International Association of Universities (IAU) and UNESCO. This fake version was created with the purpose of providing legitimacy and demonstrating accreditation of an unaccredited institution in Uruguay and others linked to it. IAU published in March a disclaimer on its website advising that the authentic version of the handbook was available from the publishing house, but a few days later an

“independent” publishing house was offering the fraudulent version of the publication that was authored by a certain organisation called UNESCO “Union Nacional de Educacion Superior Continua Organizada” (different of course from the official UNESCO, where the acronym stands for United Nations Educational, Scientific and Cultural Organization).

Another important element of international co-operation in the field is training. While each ENIC centre manages internal training for its credential evaluators, over the last several years the Dutch ENIC centre has been offering a training course for new credential evaluators in the ENIC–NARIC networks, thanks also to the co-financing of the Erasmus+ programme. The course, an essential background for credential evaluators, provides training also on diploma mills and procedures for verifying the authenticity of qualifications, contributing to a common European understanding and awareness of the topic among ENIC–NARIC centres.

Another significant form of international co-operation is in the framework of international projects. A list of recent projects in the field and related resources is provided at the end of this chapter in Appendix 3.1.

Monitoring

Monitoring of activities of providers of fraudulent services can be done by the various actors at national level. Historically, ENIC–NARIC centres and networks have monitored the phenomenon, as highlighted in the previous paragraphs. This monitoring activity has focused on keeping track of different mills operating in Europe and globally, keeping a census of them for internal use and assessing the evolution of the phenomenon, from the small and “home-made” mills to the most recent trend, characterised by multinational companies operating online and diversifying their business beyond diploma mills with accreditation mills, recognition mills and more.

Looking at numbers, the project partners in the framework of the FRAUDOC project (2018) used their expertise to compile a list of diploma mills, with around 2 150 recorded. This number refers only to diploma mills, but many of them have a “supply chain” behind them, with accreditation and evaluation mills.

Case study

Degree and accreditation mills have been around for a long time, as have schools with questionable practices. In Europe, the practice of awarding cheap degrees for little or no work dates back to medieval times and includes examples such as the University of Cesena in Italy, whose practice of awarding substandard degrees for a minor fee earned it the nickname *l'università dei due prosciutti* (“the university of the two hams”). But whereas the degree mills of the past were local and physical entities, modern-day degree and accreditation mills are global in scope and virtual in character. Historically, two processes have contributed to this. The first is the rapid growth in correspondence education in the United States at the end of the 19th century, which transformed the mode of delivery of higher education and

made it available to new and larger categories of learners. The second, of course, is the internet and the possibilities it opened up in providing online education across social and geographical barriers.

While traditional brick-and-mortar institutions have been slow to adapt and respond to new circumstances, the opposite is true for degree mills, the vast majority of which have been vanguards of the digitisation of higher education and quick to exploit the weaknesses and vulnerabilities of traditional, legitimate universities. Almost a hundred years ago, in 1924, a degree mill in Washington DC, Oriental University, had developed practices that were to be followed by many others, such as offering exclusively non-residential programmes and establishing a network of agents throughout the world who advertised Oriental University's offerings and handled student recruitment. The owner of Oriental also kept records of the students, their theses, countries of origin and degrees awarded, a practice which was echoed some 80 years later by the owner of the degree mill empire St Regis University, at the time one of the largest degree mills in the world.

St Regis was run by a family and their associates in Spokane, Washington state, and initially it was very successful, mainly because the Randock family managed to secure recognition for their entirely fictitious universities in Liberia by bribing staff at the Liberian embassy in the US. Another contemporary degree mill was the University Degree Program, run by Americans from Romania and Israel. The University Degree Program made an estimated US\$ 450 million over a five-year period through the sale of diplomas from online universities, with fake international driving permits as an additional product. Among other degree mills active at the time, some of the more prominent were Irish International University and Almeda College and University. In a 2008 interview with the BBC, the honorary chancellor of Irish International University described the university in the following way: "of course it's dodgy, the whole thing is dodgy" and "when you look at the website, it's just a figment of someone's imagination: someone's dreamt up what a university is supposed to look like and that's what's on the website".

Historically, higher education institutions and governmental and other organisations have been slow in responding to the threats of degree mills. In the US, the first attempt at regulating the granting of academic degrees was initiated by the North Central Association of Colleges and Schools in 1896. During the 1920s, the newly founded American Council on Education together with the then Post Office Department was instrumental in exposing the Oriental University.

Degree mills – An international problem

While many degree mills of the late 20th and early 21st century were firmly rooted in fertile US degree mill soil, fake universities are of course not an exclusively American phenomenon. During the same period, the Russian degree mills World Information Distributed University in Moscow and the International University of Fundamental Studies were actively targeting potential customers in Russia but also in Africa, and a number of questionable schools established themselves in Bangladesh and Pakistan. The latter country also saw the birth of some home-grown degree mills, for example the West Coast Institute of Management and Technology, later West

Coast University. Although claiming to be located in Perth, Australia, the school in fact operated out of Karachi. Now known as West Coast University Panama, this degree mill is still very active and an important part of a loose but large network of fake universities, accreditation and credential evaluation mills. The market has been divided by the members of the consortium so that some concentrate their efforts on Central America while others opt for Africa and Asia.

Axact – Too much and never enough...

Towards the end of the 20th century, West Coast University's position in Pakistan was challenged by a new kid on the degree mill block, an entity that took the degree mill concept further by combining past experiences and techniques with the most up-to-date technology and an aggressive attitude – Axact.

Axact is allegedly a software company with headquarters in Karachi, Pakistan, founded in 1997. According to Axact, it's the world's largest IT company, but in reality, the company's main product is not computer software but rather "education", alongside blackmail and extortion.

Axact ventured into the education business around the year 2000. The original portfolio included fake theses and term papers available from a number of websites, with names like essayrelief.com. While the theses and term paper sites were and still are an important source of income for Axact, the company soon allocated more resources to the creation of something even more profitable: fake university websites.

These fake university sites make up about 25% of the 4 000+ websites created by Axact over a period of 25 years. In addition to the university websites, the "education" side of Axact's business activities also includes a huge number of fake high schools, accrediting agencies, governmental (mainly US) agencies, companies performing background checks and fraudulent credential evaluation services. In addition to that, Axact has created websites providing fake teaching and engineering certifications. In total, Axact has sold more than 9 million fake degrees, which makes Axact the world's largest degree mill ever, by far. The 10 000 degrees sold by St Regis University mentioned above to customers in 120 countries are dwarfed by Axact's 9 million. According to sources, Axact grossed US\$70 billion between 2011 and 2022. While "education" is a good source of revenue, the main bulk of Axact's income comes from the "Upsell" (see "Organisation" below) – extortion, blackmail and threats. By 2015, the company had created at least 400 fake high school and university websites, around 150 accreditation mill sites and 400+ theses and term paper sites. All figures are estimates and the total number of sites at the time was very likely much higher.

Website appearance

The appearance of Axact university (and other) websites normally follows a standard template. The university will have an English name, usually including words like "field", "creek", "bay", "valley", "mount" or "wood" (For example, Trevor Field University, California Creek University, Brooklyn Bay University). Most schools will make claims to being "the world's largest online institution" and share content such as "X University's curriculum is an integration of technology and tradition" or "at X University, we give

you enough reasons to be inclined towards us". All sites will contain information about accreditation, with more recent sites being more developed in that they list not only international accreditation but also regional and subject-specific accreditation. As Axact schools try to create an impression of being global entities, information about national recognition is generally not included. Images on the websites are often stock images.

Most but not all sites will feature a chat function that puts customers in direct contact with an Axact salesperson. Within minutes of accessing a site, the chat box will appear as an overlay on the website. A characteristic of Axact sites is that they are normally hosted on servers in countries like the Netherlands and Russia, where legislation is favourable to webhosts providing so-called "bulletproof hosting". The webhost will not respond to takedown requests, even from law-enforcement agencies. For at least the last seven or eight years, new schools have been created regularly, with new batches of sites registered every two to three months. While some earlier Axact sites still use the .com or .org internet top-level domains, the majority of recently registered sites use either the .education or .university top-level domains. Both are unregulated and unmonitored but are of course useful for creating an impression of legitimacy.

Monopolising the degree mill market

Axact dislikes large-scale competition. With West Coast University forced out of Pakistan and the University Degree Program and St Regis University out of the picture, one of Axact's few remaining serious competitors on the US market was Almeda College and University. In 2015, an Axact employee travelled to the US to negotiate Axact's takeover of Almeda. The school, and a handful of associated schools, became the property of Axact. The websites became more Axact-like in appearance and the schools' names changed, for example from Paramount California University to Pacific Cambria University.

Now, this is of concern to the international higher education community for the simple reason that since small degree mills may cause huge problems, an entity the size of Axact may create havoc. The risks associated with Axact go beyond higher education.

Accreditation mills

Historically, degree mills have created accreditation mills, as associated providers of fake or substandard quality assurance. One example is the World Association of Universities and Colleges, established by Dr Maxine Asher, to provide accreditation for her degree mill American World University and for other schools willing to pay the fee for the rather perfunctory process (to the point of one accredited school actually suing the World Association for Universities and Colleges for not conducting any reviews at all). In addition, governmental and other agencies have been subject to impersonation; see above for the discussion about the fake "UNESCO" and "International Association of Universities" created by an individual with links to schools in the West Coast University Panama network (this person has since been sentenced to four years in prison for fraud related to higher education and money laundering). What makes Axact stand out, however, is the sheer magnitude of the company's activities: thousands of sites have been registered and new sites are

registered every two to three months, including university sites as well as accreditation mill and fake governmental agency sites. Among recent additions to Axact's product line are fake scientific journals.

In general, an Axact accreditation mill is associated with Axact schools only. The "United States Education Commission", for example, accredits Austell Ford University, University of Greatwood and Jones International University but not any non-Axact schools. There is one notable exception to this. The "International Accreditation Organization (IAO)" dates back to the early years of Axact, and this organisation is also actively targeting legitimate but unsuspecting universities, in the same way that the "World Association of Universities and Colleges" did. One example of a legitimate school briefly accredited by the IAO was a private university in eastern Europe.

While Axact mainly upholds a degree mill tradition of self-accreditation, there have also been instances in which the company has sought accreditation from legitimate accrediting agencies (sometimes agencies with a lackadaisical attitude to accreditation). A handful of Axact schools, including Orlando University, were for a while included in the membership directory of a European accreditor that at the time was an affiliate of the European Association for Quality Assurance in Education (ENQA). This, and the fact that the accreditor was also a member of the US-based Council of Higher Education and Accreditation's so-called International Quality Group was ruthlessly exploited by Axact in the marketing of the schools.

The ENIC–NARIC networks have an important role to play here: by collecting and sharing information about accreditation with other stakeholders, such as ENQA, the networks are in a good position to combat accreditation mills in a more efficient way and to prevent degree mills from being included in official databases.

Fake databases

Axact runs a handful of sites that are effectively databases. These are intended to look as official as possible and in a sense they are: lists of accredited members of regional accrediting agencies in the US are stolen and names of Axact schools are inserted to create the impression that these fake universities are fully recognised, trustworthy and equal to regionally accredited universities in the US. Again, the ENIC–NARIC networks' role in monitoring Axact's and other providers' (such as the aforementioned fake International Handbook of Universities) activities in this area and provide information on them is essential.

Credential evaluation mills

Another potential problem for employers and university admissions worldwide, as well as for the ENIC–NARICs, is Axact's recent focus on credential evaluation services. Fake agencies have been created for the sole purpose of providing evaluations of Axact degrees as being equivalent to degrees from regionally accredited US universities or recognised universities in, for example, the United Arab Emirates. Whereas fake universities and accreditation mills are established sources of revenue, the credential evaluation market is an untapped resource: until recently, this market has been dominated by a US-based company.

This is likely to change, and the implications for the ENIC–NARIC networks are obvious: in addition to providing information on recognised universities and accrediting agencies as well as degree and accreditation mills, the network may need to turn its attention to its own core business and closely monitor developments in the field of rogue credential evaluation. Degree and accreditation mills have a negative impact on legitimate higher education and quality assurance, while credential evaluation mills will impact academic recognition negatively.

“Education” as a commodity

“Education” is a good source of revenue, although the company has branched out to fake web and mobile phone applications, logo design and patent scams. To attract customers to the university websites, the company uses various techniques but sales rely in part on marketing through feeder sites with names like affordableddegrees.com or customdegrees.com. Axact also uses various tools to analyse from where a particular website draws traffic, in order to be able to better adapt site content, and, which is worth mentioning, make frequent use of so-called IP trackers, enabling Axact staff to know exactly where and even who a potential customer is.

Customers can contact Axact by e-mail, phone or the chat function on the websites. This will put them in contact with one of Axact’s call centres in Karachi or Islamabad (the call centres in Lahore and Rawalpindi have been closed). Prices vary from university to university, with the more “prestigious” schools being the most expensive. Usually, hefty discounts are offered, often in the form of “scholarships”. Many sites created after January 2020 include information about the “Joe Biden Presidential Scholarship”.

Organisation

Axact is organised and run as a company with several divisions through which different services are offered – these are Prior Learning Assessment, Online Education, Research and Sponsored Development, and Upsell.

Prior learning assessment

When in contact with a customer, an Axact salesperson will conduct a short interview with the customer, asking questions about prior learning and work experience. After the interview, the customer is informed that he or she fulfils the requirement for a degree. A majority of Axact universities provide this service and there are several payment options, such as Cash on Delivery or Graduate Now, Pay Later.

Online education

This limited service is provided by a smaller number of schools and is geared towards markets in the Middle East. “Students” get access to virtual classrooms with pre-recorded classes and seminars, many of them stolen from legitimate universities. In the classrooms, customers are guided, and graded, by “tutors” who themselves have no experience of higher education. Over the years, Axact has employed mainly young

men who have only finished high school but speak fluent English. With wages two to five times the going rate, Axact is an attractive employer. Employees are obliged to sign a non-disclosure agreement.

Research and sponsored development

This may sound impressive but is a euphemism for the fake research and term paper services. Marketed as “100% non-plagiarised”, the content is often stolen by Axact, after obtaining library IDs and login details from hackers in Pakistan and China.

The upsell

Soon after purchasing an Axact degree, the customer is contacted by an Axact salesperson, claiming that the documents need to be “legalised” in the customer’s country of origin or domicile, or both. Legalisation will of course come at a cost, and failure to comply will result in the customer receiving threats of being “reported” to law-enforcement agencies in their home country. The Swedish ENIC–NARIC has received phone calls from individuals asking for advice on how to deal with this situation.

Another option is for the Axact salesperson to offer an upgrade. For a modest fee, the customer can upgrade the degree to a degree from a more “prestigious” university. Again, if the customer turns the offer down, threats are likely to follow. Single victims are known to have paid Axact up to USD 1.4 million. In recent years, perhaps in response to negative publicity, Axact has been divided into three separate entities, called T-Curve, Syscrow and Dipdag.

How is this possible?

Axact has been in business since 1997 and the obvious question is of course how is this even possible? In 2015, the *New York Times* published several articles about Axact, followed by exposures in the BBC, CBC News in Canada and Al-Jazeera, which led to the Federal Investigation Agency (FIA) in Pakistan taking action against Axact. During the raid of Axact’s headquarters in Karachi, the FIA confiscated 2.2 million blank diplomas, transcripts and letterheads. But in spite of the FIA raid of Axact’s headquarters in Pakistan, the legal consequences have been few: about two dozen executives of Axact, including the CEO, were arrested in 2015 and held in prison for 15 months, later receiving a new trial. The initial sentences were set to 20 years, which were later reduced to 10 years.

In the end, no-one was incarcerated. To some extent, this is connected to the lack of sufficient legislation in Pakistan, as well as threats and intimidation directed at lawyers, judges and witnesses, and also to the fact that Axact has friends in high places. It has been alleged that Axact provides useful services to the country’s intelligence agency, the Inter-Services Intelligence. The money made from the sale of diplomas and transcripts from fake universities is laundered through bank accounts in more than 20 countries. These accounts may be of use to the Inter-Services Intelligence but recent research points to another, more disturbing connection. It is very likely that the real owner of Axact, and the one who pulls the strings, is the leader of an Indian crime syndicate operating out of Mumbai, and the owner living in exile in Karachi is wanted by both Indian and US authorities.

Why is this important?

It is easy to think that Aexact is mainly, if not only, a Pakistani problem, but this is not the case. Aexact's main markets are in the US and the Middle East, in particular Dubai. There are an estimated 700 000 customers in the US alone – customers, not degrees sold. The total number of degrees purchased by US customers is far higher. Aexact degrees will remain a problem for the labour market in the US and the United Arab Emirates for a long time, and holders of Aexact degrees will apply for further studies primarily at universities in the US and the Middle East, but also elsewhere. However, Aexact degrees may show up in other circumstances too: although there is no direct evidence, there are indications that Aexact degrees form part of what may be referred to as “migration packages” for refugees: the Swedish ENIC–NARIC has noticed that since 2015 there has been a small increase, but nevertheless an increase, in the number of refugees from the Middle East who apply for an evaluation of their Aexact university degrees.

Aexact schools and diplomas are relatively easy to identify with some basic training and, although it may be time-consuming, the ENIC–NARIC networks are in a good position to address the problem through information sharing. The Swedish ENIC–NARIC maintains a list of universities, high schools, accrediting agencies and so on. The list is based on extensive research since 2005. From other ENIC–NARIC offices, good, country-specific knowledge and information about degree and accreditation mills is available. In order to more efficiently combat degree and accreditation mills, this information should be shared within the networks and (as far as possible) also with other stakeholders. Another reason to do so is the complexity and constantly evolving nature of the degree mill world. Research and information sharing will make vital contributions to the understanding of the problem and its consequences across the higher education sector, from ENIC–NARICs and quality assurance agencies down to admissions officers.

Conclusions and recommendations

Since their creation, ENIC–NARIC networks have been key actors in countering diploma mills along the lines of the recommendation, through prevention (providing relevant and transparent information on accredited institutions and programmes), protection (supporting and providing advice for legislation protecting relevant education terminology), monitoring (keeping track of diploma mill activities), prosecution (providing information to national authorities that have this competence) and international co-operation (through exchange of information, peer support, and training and capacity building at national and international level).

From this experience it is possible to outline some recommendations.

- ▶ Support co-operation within ENIC–NARIC centres, and within centres and relevant organisations and competent authorities at national and international level, as a way to prevent and counter diploma mill activities.
- ▶ Share information. Other stakeholders can hold different pieces of the puzzle and can help in reconstructing the whole picture. Co-operation

among stakeholders along with information exchange can help in fighting the entry of fraudulent documents into the system. Ask ENIC–NARIC colleagues if they have experience with a certain institution. Share and disseminate information on cases duly spotted with relevant authorities and stakeholders.

- ▶ Support legislation protecting relevant education terminology; national legislation as well as the legal consequences of using bogus degrees should be easily accessible for applicants.
- ▶ Consider the media to be your allies in the fight against diploma mills.
- ▶ Support awareness in the education sector but also in the labour market and among employers of the necessity to always verify authenticity and genuineness of qualifications.
- ▶ For educational institutions, support the establishment of guidelines and agree institutional policies on degree fraud.
- ▶ Inform the public about diploma mills and fraudulent documents. Informing the public about the consequences of presenting fraudulent documents and a clear policy on this issue can help in preventing the phenomenon.
- ▶ Push for policies and actions to discourage and eliminate accreditation mills or dubious accreditation agencies.
- ▶ Invest in training: expertise and knowledge of higher education systems is one key factor in order to prevent and expose diploma mills and the diffusion of fraudulent documents.
- ▶ Create tools for the identification of diploma mills.
- ▶ Use evidence of quality provided by acknowledged competent authorities, such as recognised accreditation and quality assurance bodies.
- ▶ Encourage providers of public and private funding for higher education to avoid funding diploma mills and their students.
- ▶ Inform the public, employers and higher education institutions about diploma mills.
- ▶ Pursue legal action against diploma mills and the use of fraudulent credentials.
- ▶ Pay attention to cross-border diploma mills' operations.

Appendices to Chapter 3

Appendix 3.1 – Resources developed by ENIC–NARIC networks

ENIC–NARIC website (2022) – see www.enic-naric.net. On each country page there is information on recognised higher education institutions, and on verification sources.

EAR manual (2012) – see <http://ear.enic-naric.net/emanual/>. Chapter 16 of the manual is dedicated to non-recognised but legitimate institutions, and Chapter 17 is dedicated to diploma and accreditation mills.

FRAUDOC (2018) – see www.cimea.it/EN/pagina-fraudoc. Two publications: “Guide to diploma mills and other dubious institutions” and “Handbook on document fraud for credential evaluators” (the latter is accessible to ENIC–NARIC staff only), plus a flyer on the 10 commandments for credential evaluators on document fraud, and a booktrailer.

FraudSCAN (2020) – see <http://fraudscan.cimea.it/>. A database of fraudulent qualifications which collects the scanned copies of fraudulent qualifications received by ENIC–NARIC centres, allowing users to compare fraudulent qualifications with authentic ones, plus a database of authentic qualifications (accessible to ENIC–NARIC staff only).

FraudS+ (2022) – see www.cimea.it/EN/pagina-fraud-scan. “Knowledge and awareness of fraud in education: a student perspective” presents the results of a survey distributed among students to gain a better understanding of their perception of the phenomenon of fraud in education. Together with this publication there is a video series of three episodes, based on the findings that emerged from the analysis (“Look for quality in your education”; “Keep challenging yourself”; “You are part of a community”).

CIMEA against the mills (2010) – see www.cimea.it/Upload/Documenti/6719_CIMEA_Against%20the%20mills_2010.pdf. This publication presents the phenomenon of diploma mills, with ways to counter them and 50 specific examples of diploma mills.

Appendix 3.2. – Evidence on diploma mills from the ETINED 2022 baseline survey

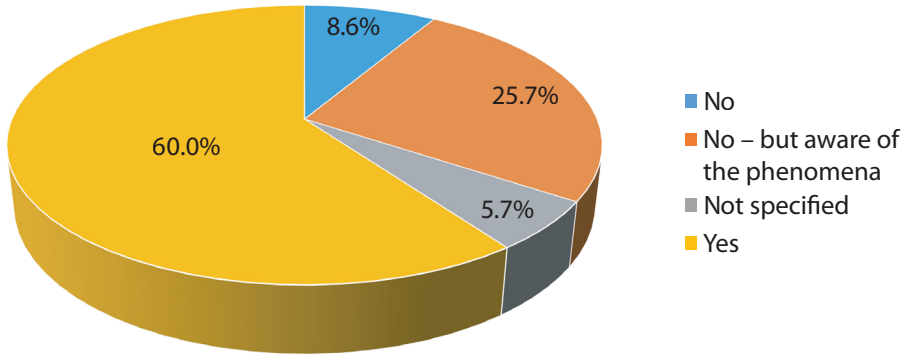
This appendix presents information related to the topic of education mills, with specific reference to diploma mills and their “supply chain” as reported by the ETINED baseline questionnaire. The questionnaire, aiming to provide evidence-based information on the topics covered by the Council of Europe Recommendation Rec(2022)18 on countering education fraud, was open for answers by ETINED delegates from 12 May until 30 June 2022 and received answers from 35 respondents.

The survey contained five questions that are of interest for the discussion on diploma mills.

The first question focused on awareness by respondents of the presence in their country of education mills, as defined by the recommendation (accreditation mills, diploma mills, essay mills, essay banks, visa mills). More than half of respondents were

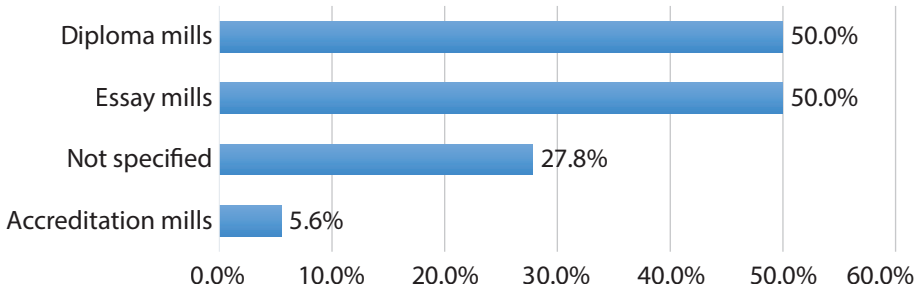
aware of the existence of activities related to education mills within or outside their country (60%). Less than 10% reported that they are not aware of such activities, while 25.7% said that they are aware of the phenomenon even if they do not have evidence of activities within their territory.

Figure 1 – Awareness of activity of education mills in their country



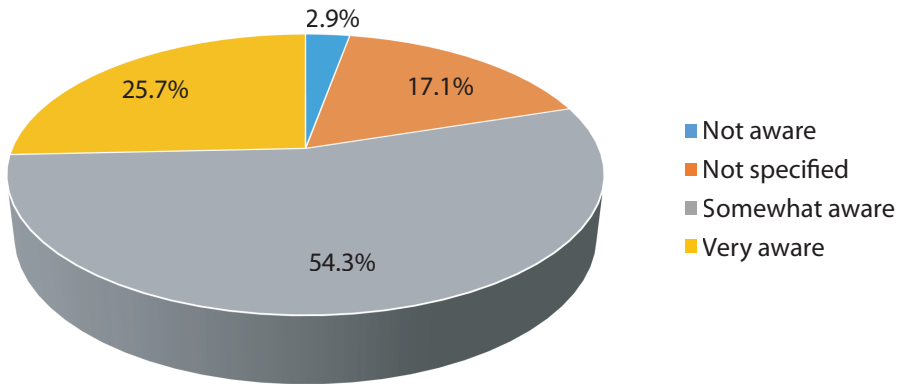
Among the respondents reporting the presence of education mills, 50% referred to the existence of diploma mills. In most cases, the competent authorities seem to be aware of these malpractices, there is monitoring activity in place and in some cases legal action has also been taken against the education providers involved. In most cases, the competent authorities are aware of the phenomenon and take action through prevention, monitoring and prosecution.

Figure 2 – Typology of education mills



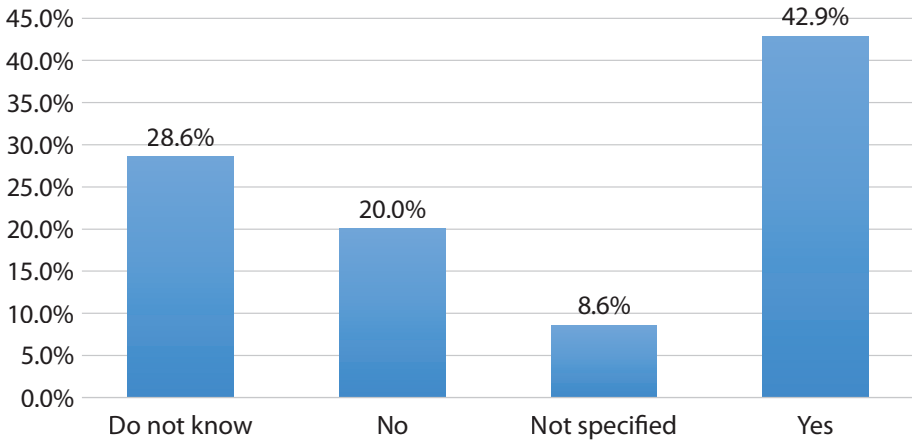
A second question focused on the level of awareness of education fraud by the education community (pupils, students, researchers and staff of education institutions), and 25.7% of the respondents reported a high degree of awareness on the issue. In most cases, the academic audience seemed to be only partially familiar with fraudulent activities. Some respondents highlighted different degrees of awareness according to the category (for example, higher level of awareness shown by academic staff when compared to the one demonstrated by pupils). Some phenomena seemed to be more well known than others, with respondents reporting higher awareness of essay mills and essay banks, and less of other education mills. One country also referred to the role of mass media in supporting awareness of the phenomenon.

Figure 3 – Awareness of education fraud within the education community



A third question focused on the role of the internet in supporting fraudulent education service providers. This role seems to vary quite significantly among the countries of respondents. Whereas most respondents could not affirm a clear cause–effect interconnection between education fraud and internet-based education fraud providers, the countries where their activities were reported could identify the role of the internet as a significant part of the issue.

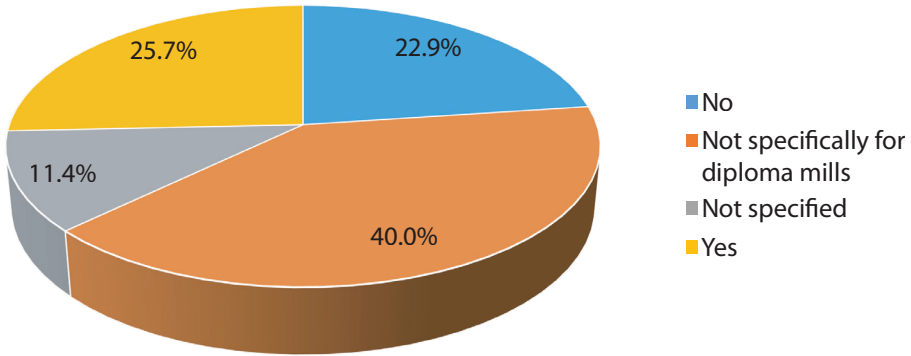
Figure 4 – Awareness of activities in the country mainly due to internet-based education fraud providers



Another question was about legal or other sanctions available to deal with the advertising of education fraud at national level, with reference to point 6 of the appendix to the recommendation (“Advertising and promotion of education fraud”). Responses showed that 22.9% of the countries do not have a legal framework in place to address the issue or, if legislation against academic fraud actually exists, it does not deal directly with the advertising of diploma mills and accreditation mills (40%). However, 25.7% of countries do have legislation to counter advertising of education fraud.

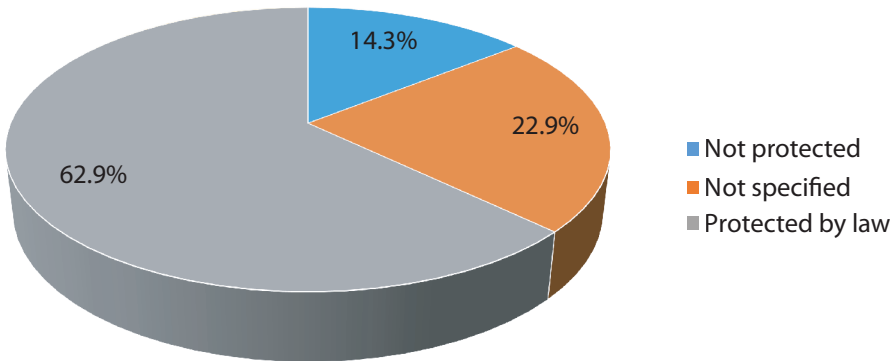
Where specific legislation was in place, sanctions seemed mainly to take the form of fines or administrative penalties. In some cases, they are rarely applied or require further investigation on the topic besides the analysis of the advertising itself. In one country there are plans to create stricter laws directly addressing unfair or misleading advertising published by non-accredited educational institutions.

Figure 5 – Sanctions countering advertising of education fraud



In order to prevent, and if possible eradicate, all forms of misrepresentation by fraudulent education service providers, 62.9% of member states have ensured effective protection by law of the relevant education terminology, and in some cases translations of that terminology, paying particular attention to institutional and academic titles and nomenclature of awards and qualifications.

Figure 6 – Protection of educational terminology



Among the countries that have protection by law of the relevant education terminology, more than half of respondents declared that titles of educational institutions are protected by law so that terms such as University, Academy, University of Technology, University College, Further Education and Higher Education cannot be used in their countries without authorisation. This makes bogus institutions comparatively easy to detect and most fraudulent sites have to use different titles to define themselves.

As for qualifications, countries have protected their degree names, mainly including qualification names, and their definition within the relevant law on higher education; in one case the protection of degree names is enforced through criminal law.

All countries confirmed either the publication of whitelists of recognised/accredited institutions (around 57.1%) or recognised/accredited programmes (around 6%), or both (37.1%). Usually, these lists can be found on the website of the relevant Ministry of Higher Education, ENIC–NARIC centre or QA agency (nine countries). In some cases, information is provided by more than one national authority.

Chapter 4

The role of codes of ethics: building a culture of ethics and integrity in higher education

Luca Lantero and Chiara Finocchietti

Context

This chapter is framed in the context of the recommendation on countering education fraud (Council of Europe 2022b). The appendix to the recommendation supplies in point 8 the following indications.

Member States and education institutions, through national legislation and/or institutional regulations, should establish clear codes of ethics, based on the ETINED principles, governing all aspects of education affected by education fraud, including governance, management and human resources. Legislation or regulations should ensure a fair process for the enforcement of codes of ethics.

As reported in the explanatory memorandum to the recommendation, this article calls on member states to also explore non-legal measures to combat education fraud by the introduction of ethical codes. We would like our contribution to serve as input to the implementation of the recommendation, by offering in the first part evidence-based information on codes of ethics provided by ETINED countries (data provided by ETINED delegates through two surveys in 2019 and in 2022) and by students (through a survey addressed to them in the framework of the EU co-funded project FraudS+). The second part describes the implementation of a code of ethics in Italian universities, as a country case study in one ETINED member state. Finally, drawing on the first two sections, a few elements and questions for discussion among ETINED delegates are raised, in view of the ETINED plenary in November 2022.

Highlights from the ETINED surveys and FraudS+ project

Codes of ethics formed one of the topics addressed in two surveys circulated among ETINED delegates, one in 2019 and then the baseline questionnaire in 2022.

ETINED survey 2019

The survey on the topic of education fraud was circulated among delegates of the ETINED platform in spring 2019, following the ETINED symposium on the same topic in November 2018, and received answers from 25 countries.

In the 2019 survey, one question was “Have you adopted or are you planning to adopt at national/institutional/organisational level codes of ethics in education? If so, please provide a link to the codes of ethics”. The answers provided by 28 respondents show a quite heterogeneous landscape. In a slim majority of countries codes of ethics do exist, with 53% respondents answering yes, 43% saying no and 4% giving no answer.

The majority of respondents (55%) answered that codes of ethics are developed at institutional level, and 35% have a national law or code at national level. Only 10% of respondents indicated that they have a code of ethics for educators/teachers.

Figure 7 – Have you adopted or are you planning to adopt (at national, institutional or organisational level) codes of ethics in education?

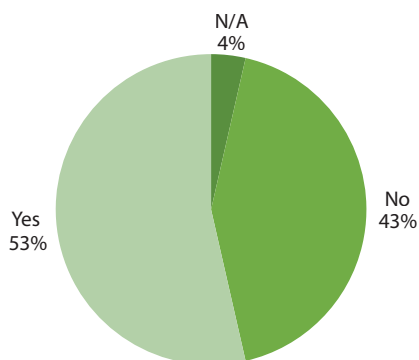
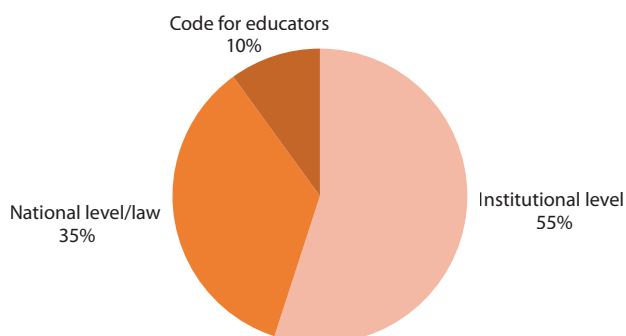


Figure 8 – Typologies of codes of ethics



The process of establishing a code of ethics varies. In some countries it is compulsory for higher education institutions to adopt a code of ethics due to national law, whereas in other contexts there are no national guidelines for approval, implementation and monitoring, and educational institutions establish their own code

of ethics according to their autonomous status. There are also cases in which the code of ethics exists at national level, and educational institutions are required to implement the principles of the code itself.

In general terms, in the contexts where the adoption of a code of ethics is a legal obligation at national level, the relevant law is rather new. National contexts are quite different, with a number of countries where the idea of adopting a code of ethics is quite new in contrast to countries where this is a well-established “tradition” and codes of ethics have already undergone revision, at national and/or institutional level.

According to the answers, “code of ethics” is an umbrella term that encompasses codes of conduct, codes of research and/or academic integrity, and codes for teaching staff and educators.

ETINED baseline questionnaire 2022

The baseline questionnaire was opened for answers from ETINED delegates from 12 May until 30 June 2022 and received 35 answers. The questionnaire addressed the main topics covered by Recommendation CM/Rec(2022)18 on countering education fraud.

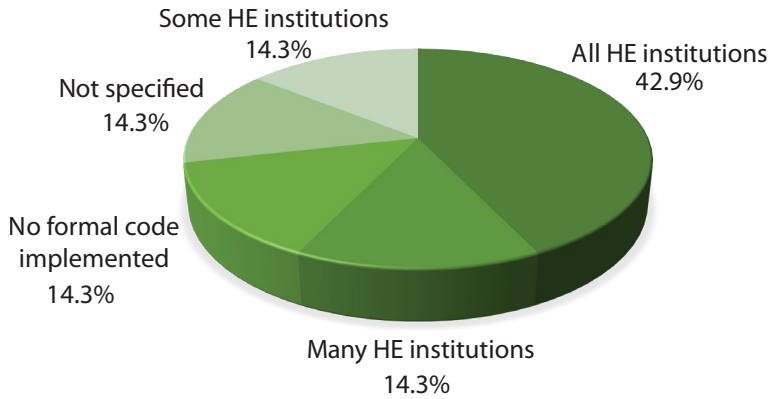
Codes of ethics

One of the questions referred to point 8 of the appendix to the recommendation on codes of ethics: “Have education institutions in your country developed codes of ethics, and, if so, can you provide links to the relevant web pages or, if links are not available, can you please detail these so that we can develop a comprehensive database of relevant codes?”

The majority of answers referred to higher education institutions: in 42.9% of countries all such institutions had adopted a code of ethics, 14.3% could not confirm that all institutions have developed a code, but most of them have, and finally 14.3% reported that the adoption of a code of ethics could be attributed only to some institutions operating in the country. But in countries where there is no adopted code of ethics, there are regulations and guidelines regarding ethics and integrity, and on the prevention of education fraud and academic misconduct. These regulations could be standalone, or in one case incorporated into the study regulations. Furthermore, one of these countries is working on drafting a general regulation providing guidelines for ethical practice and research integrity.

Summing up, almost all the respondents, except two, gave a positive answer; more precisely, one answer was negative and one was “no answer”. Compared to the 2019 survey, and considering the higher number of respondents, the results show a dynamic landscape at European level with regard to codes of ethics.

Figure 9 – Adoption of codes of ethics at institutional level, by country



Nine respondents made reference to national legislation or guidelines, for instance on research integrity or supporting implementation of codes of ethics at institutional level.

Two respondents also provided reference to a code of ethics for schools.

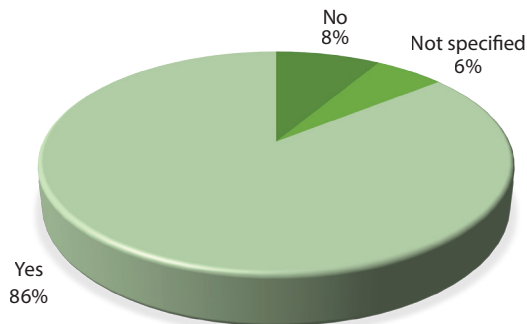
Looking at the typology of codes, respondents referred to codes for research integrity, and codes of ethics for teachers, academic and administrative staff, at national and institutional level, and for students (at student level, one country referred for instance to a code for students of medicine). One country referred to the existence of ethics committees at institutional level for the interpretation and implementation of the code.

One respondent also emphasised that the existence of these diverse codes is an expression of a degree of responsibility for professional fairness felt by institutions and individuals alike; however, these overlaps can also be problematic in that they make it difficult to understand which codes apply and which are more relevant than others.

Legislation

The questionnaire had two additional questions that, even if not focusing directly on codes of ethics, could be of help in framing the context. One of these questions was about legislation dealing with any of the issues of education fraud as defined in the recommendation, and 85.7% of the respondents confirmed the existence of legislation dealing with education fraud and less than 10% reported not having any laws addressing the topic.

Figure 10 – Existence of national legislation addressing education fraud



Among the 30 countries that already had a legal framework in place, the topic that was covered by the legislation of a large majority was plagiarism (17 countries), followed by the protection of education terminology (10 countries) and the advertising of education fraud activities (nine countries).

Codes of ethics were mentioned by eight respondents (plus one country that is working on a code of conduct).

Figure 11 – Topics covered by national legislation



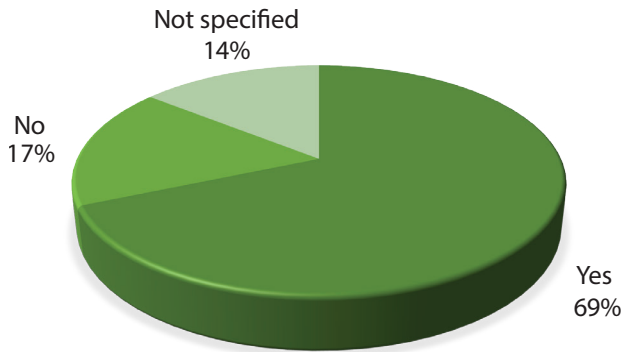
Monitoring

A further question that could be relevant for codes of ethics was about monitoring activities among the topics covered by the recommendation.

The data proved how wide the diffusion is of an overall legal framework for sustaining, enhancing and promoting academic integrity, as well as for prevention and protection against its violation through national legislation combating education fraud, and also institutional codes of ethics nurturing shared principles of ethics and integrity in the academic environment.

Of the respondents, 69% declared that their country already had, or planned to have in the near future, systems to monitor academic fraud and the activities of education fraud providers; and 17% gave a negative answer. An element that was highlighted by a few respondents was the presence of different actors that play a role in monitoring: ministries, quality assurance agencies, ENIC–NARIC centres, integrity networks (in those countries where they exist), sometimes operating in synergy. In five cases, a dedicated body is specifically devoted to the monitoring activity.

Figure 12 – Monitoring activities at national level



A student perspective: FraudS+ survey

A third contribution to the analysis of codes of ethics is from a student perspective. In the context of the EU co-funded project by FraudS+ – “False records, altered diploma and diploma mills qualifications collection” (2020-22), which involved the ENIC–NARIC centres of Italy (co-ordinator), France, Germany, Ireland, the Netherlands and Sweden, as well as the European Students’ Union (ESU) – an exploratory analysis was carried out to gain a better understanding of students’ perception of the phenomenon of fraud in education. This would constitute the empirical foundation for the creation of instruments directed towards the promotion of a culture of ethics and transparency in the greater academic community.

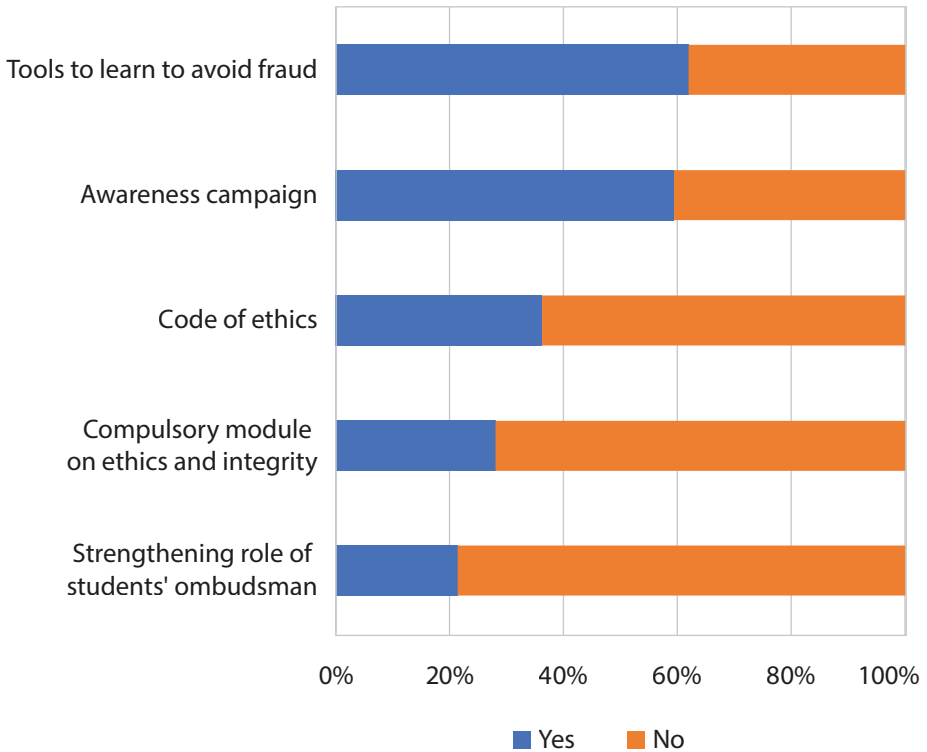
The analysis, reported in the publication *Knowledge and awareness of fraud in education: a student perspective* (FraudS+ 2022), is the result of a survey addressed to students in their last year of upper secondary education, national and international university students, and students belonging to ESU in partner countries, in order to gauge their overall awareness of the phenomenon of fraud in education. The survey, conducted in English, French and Italian, comprised 17 questions. It was open to respondents from June to September 2021 and received a total of 2 147 answers.

One question of the survey, close-ended, focused on identifying potential initiatives that according to students could be implemented to tackle the phenomenon of fraud in education.

According to the results obtained, most students see the introduction of tools aimed at teaching them how to identify and avoid resorting to fraudulent activities as being the most effective initiative (approximately 62%). A close second in the results, standing at about 59%, would be the adoption of awareness campaigns regarding the phenomenon.

In third place, with 36%, codes of ethics are seen as tools to be implemented to deal with education fraud. From this evidence, it seems that a relatively low percentage of students see codes of ethics as a tool to tackle fraud in education.

Figure 13 – Proposals to tackle fraud in education



Source: FraudS+ 2022: 19.

A country example: Italy

General characteristics of codes of ethics

Acknowledgement: key contents of this section are summarised/adapted from Lantero and Miano 2022.

The definition of a code of ethics reflects all its complexity. According to Italian legislation (Law No. 240/2010), every university should adopt and rely on a “code of ethics of the university community” that establishes fundamental values, individual rights and responsibilities of students, researchers, professors and technical and administrative staff of the institution. According to Article 2, comma 4, of Law No. 240/2010, the code of ethics “determines the fundamental values of the university community, promotes recognition and respect of individual values, and the acceptance of duties and responsibilities towards the institution, and sets the rules of conduct within the community” (authors’ translation). The code of ethics is inserted in the article that concerns more generally the internal organisation of universities and their governance; this positioning expresses well the central role that codes of ethics should play in the academic community.

Since the adoption of ethical codes is one of the main aspects of the organisation of a single university, it is of paramount importance to distinguish it from the code of conduct. In this regard, the Italian National Anti-Corruption Authority has published guidelines on the codes of conduct of public administrations (approved with Resolution No. 177/2020), emphasising the distinction between the codes of conduct, legally relevant on a disciplinary level, and any codes of ethics. Both codes are used in an attempt to regulate behaviour, but in very different ways.

On the one hand, ethical standards generally are wide-ranging and non-specific, designed to provide a set of values that enable the community to make independent judgments about the most appropriate course of action. On the other hand, conduct standards generally require judgment, so that people obey them because otherwise they incur a penalty, and the code of conduct provides a fairly clear set of expectations about which actions are required, acceptable or prohibited. However, both codes have been sometimes combined into one general document that blends principles for the right action with a list of actions that are required or forbidden. Not only does this merger cause a devaluation of ethical codes, but it also alienates students and academic and administrative staff from the feeling of belonging to a community. Furthermore, the fact the code of ethics is often more a “code of conduct” implies that it is mainly addressed to employees of the university, such as academic and administrative staff, and less to students. The risk associated with this is that on one side students do not perceive the code of ethics as something addressed and relevant to them, and on the other side academic and administrative staff see the document as simply a repetition of a code of conduct and rules that they are already aware of, according to current laws.

A quantitative analysis of codes of ethics in Italian universities

Italy has 98 legally recognised universities, of which 11 are distance learning institutions. Focusing first on non-distance learning universities, all the 87 Italian universities have adopted a code of ethics. The ethical codes are always available online on the institutional website, except in two cases (where the existence of a code of ethics is mentioned on the institution’s website, but cannot be found in the text). Regarding the date of issue, all the ethical codes were updated/issued after the entry into force of Law No. 240/2010, except for two cases in which the ethical code on the website appears to be from 2009. Many universities appointed a body or a committee to be responsible for implementation of the code. Of the 11 Italian distance learning universities, in five cases it was possible to find the code of ethics through the university website, and in three others it was possible to find it through search engine research. For the other three universities it was not possible to find evidence of the code of ethics online.

Light and shade in codes of ethics in Italy

From the comparative analysis, it is possible to sketch a few considerations.

One point is that almost all the Italian universities have adopted a code of ethics since 2010, and some of them have already updated it, considering it an “open

document” related to the life of the academic community. In the majority of cases the code is accessible online, an important medium for its visibility and knowledge. Another point is that the majority of the codes of ethics, usually in the preamble and/or in the first section, refer to the fundamental values and principles of the life of the academic community. Another “light” emerging from the analysis is that universities are perceived as a “common good” for the whole of society. This is expressed by reference to the article of the Italian Constitution, but also by reference to the European Convention on Human Rights and to the European Charter of Fundamental Rights.

The less positive elements, where there could be space for improvements and further developments, include the fact that, even if codes of ethics are online, they are not always easily accessible or visible.

Another point to note is the link with the “local mission” of the university and thus the link with the territory in which the university is based, a link that is missing in almost all the codes.

If it is true that the codes refer to the fundamental values of the academic community, these values often remain in the background, leaving space for a more sanction-based and “pathological” dimension of the individual’s relationship with the community she/he belongs to. This is partly related to the mixture of code of ethics and code of conduct already pointed out. In this vein, students are always referred to as a target of the whole code of ethics as members of the academic community, but only in 27 codes out of 87 are there one or more specific articles addressed to them.

Regarding distance learning universities, there is no specific reference to the ethics of education in a digital and distance teaching and learning environment. This remains a relevant question mark, as the sense of belonging to a community that does not meet face to face is supposed to have its own peculiarity, which does not seem to be addressed. Distance learning institutions could already have learned lessons that might be usefully shared with other universities, not only during the pandemic and the forced shift to online teaching and learning but also for the future, where this digital dimension will probably not disappear.

Unethical behaviour and legal consequences

Although ethical codes are generally perceived as disciplinary tools, ethics and legality are not always on parallel paths. In fact, since legal provisions are more extensive and detailed than a mere discourse of values, the internal sanctioning system of universities does not prevent students, teachers and technical-administrative staff from being held liable at a criminal level. With the aim of making this concept explicit, many universities have specified it in the text of their ethical code, pointing out that rules of law are always applied to the behaviour of the members of their communities, especially in the criminal field.

Therefore, the fight against unethical behaviour of students, professors and technical-administrative staff is achieved using both internal expectations linked to ethical codes and legal provisions of the criminal code.

Universities as communities of values

Regardless of criminal sanctions, the promotion of tools (such as ethical codes) that aim to make all the components of academic life feel part of this community can lead to compliance with internal rules of the community itself. This inevitably requires that the focus shifts to a culture of ethics, transparency and integrity, rather than a punitive and sanctioning approach. Only by allowing the development of universities as autonomous communities, where everyone can make his/her own specific contribution, will the socialisation of rules become a reality. Hence, the participation of students, professors and technical-administrative staff in university life is one of the core elements in understanding its rules and the logic on which they are based.

The second aspect that cannot be overlooked is the mutual trust that must be established between members of the community. Without trust as a primary relational asset, it is impossible to make any community dimension grow. In fact, trust in others and in the system will enable people to become more responsible for their commitments and respectful of rules. This growth of trust should consist of a process of teaching ethics education from the first year of university onwards, through meetings between teachers and students during which not only ethical codes but also national and international documents that contemplate ethical education are taught.

To conclude, one point for discussion concerns the relationship between ethics, the university and the rule of law, and how codes of ethics express this relationship. One question is whether even the rules that are not enacted by the state can be considered binding when they express the founding values of a particular community. The answer to this question can only be affirmative since ethical codes should be considered as social norms that members of universities choose every day to respect because of the importance of the values they express.

Conclusions and recommendations

The ETINED platform has been working on ethical principles and behaviour since 2014. Among the results of this work there are two volumes of the ETINED series – Volume 2 *Ethical principles* (focusing on values and principles) and Volume 3 *Ethical behaviour of all actors in education* – that focus on more specific guidance on the conduct and practices expected. The two books, drafted by Ian Smith and Tom Hamilton, are strictly connected and should be seen as complementary; they reflect part of the work undertaken at the Prague Forum in 2015.

The starting point is a positive, principles-based approach, based on the concept that ethics, transparency and integrity in education can ultimately be achieved only by all relevant sections of society committing fully to positive ethical principles for public and professional life and moving beyond anti-corruption “mechanistic” regulatory measures, as Ian Smith and Tom Hamilton made clear in their presentation at the 7th Prague Forum (1-2 October 2015).

Volume 2 *Ethical principles* presents 14 ethical principles for education: Integrity; Honesty; Truth; Transparency; Respect for Others; Trust; Accountability; Fairness; Equity, Justice and Social Justice; Democratic and Ethical Governance and Management

of the Education System and Educational Institutions; Quality Education; Personal and Systems Improvement; Institutional Autonomy/Institutional Independence; International Co-operation.

Also relevant are the “Guidelines for an institutional code of ethics in higher education” (IAU–MCO 2013), first published in 2012 by the International Association of Universities and the Magna Charta Observatory, which merge in a unique document both “ethical behaviour” and “ethical principles”, emphasising values and principles while providing indications on procedure, practices and actors.

Volume 3 of the ETINED series, *Ethical behaviour of all actors in education*, lists the actors in education:

- ▶ teachers in schools;
- ▶ academic staff in higher education (HE);
- ▶ school pupils;
- ▶ HE students;
- ▶ parents/guardians/care givers/carers of school pupils;
- ▶ parents/guardians/care givers/carers of HE students;
- ▶ employers and managers within the education system;
- ▶ relevant public officials, and the political leaders and representatives of broader civil society more generally.

Detailed statements on the ethical behaviour of all actors in education are presented under the overall headings of the 14 Ethical Principles for Education, with the eight groups of actors in education as subheadings within each overall heading. This gives 112 separate statements in Chapter 7 of Volume 3 of the ETINED series.

Drawing from the activities and work already done in the ETINED framework, some of their recommendations are:

- ▶ use and adopt the *Ethical principles* and *Ethical behaviour* publications as “background source documents”, or as the basis for guidelines on ethical principles;
- ▶ start and build on work already undertaken by other organisations and co-operate with other stakeholders active in the field;
- ▶ disseminate information, share best practice and support development of expertise;
- ▶ support adoption of codes of ethics at national and institutional level;
- ▶ involve all actors and provide indications for all of them when providing guidance on codes of ethics;
- ▶ exchange practices on how to assess the impact of codes of ethics.

Chapter 5

The digital alternative

Erik Johansson and Chiara Finocchietti

Using digitisation to counter qualification fraud

Introduction

Technology at the end of the day is not really about technology alone. It's just as much about our beliefs, our convictions, our goals and ethics; all of that comes into play.

(Herman de Leeuw, Executive Director, Groningen Declaration 2021: 24)

Digitisation could play a role in preventing document fraud in various ways. This chapter is framed in the context of the Council of Ministers recommendation on countering education fraud (Council of Europe 2022b), with particular reference to point 12 of the appendix, "Use of digital solutions". It focuses on preventing and minimising qualification fraud, looking at ways to ensure authenticity of educational documents and student data (for example, diplomas, degrees, certificates, transcripts). Their authenticity is also the focus of this study and constitutes at the same time its limitations. In other words, this chapter does not explore highly relevant issues such as the use of digital tools to determine the identity of students (see eIDAS 2014) or the use of databases to determine whether an institution is bona fide or not. These latter topics are complex and deserve separate attention beyond the scope and remit of this study.

The continuous development and innovation of contemporary technologies constitutes a relevant topic in the strategy for preventing and minimising document fraud.

On one hand, technological innovation can be considered part of the problem of education fraud. The widespread use of technology offers the possibility to easily forge documents and to create at a low cost sophisticated fake qualifications that mimic authentic ones; education fraud providers and different "mills" operating on a global market are just a click away from any client; and online assessments may be subject to cheating and misrepresentation.

On the other hand, new IT tools could be a powerful part of the solution in preventing and countering education fraud, for instance by providing tools for the secure exchange of digital student data and offering online platforms and tools to verify the authenticity of qualifications. In general terms, digitisation could support the prevention of fraud in the entire educational process, from access to education to the awarding of the final qualification and its lifelong use. It is clear that technology is two-faced like Janus, being at the same time part of the problem and part of the solution.

Ethics is not a technology. Technology can be instrumental in countering educational fraud, but it should serve a comprehensive and systemic vision of policies, legislation and practices to promote ethics, integrity and transparency in education. A clear educational strategy should come first, and then the choice of technological solution that fits best to serve the educational (and ethical) strategy.

This chapter starts by presenting the risks associated with the use of paper degrees and diplomas, focusing on the central role of prevention and the concept of trust, meant as building a “chain of custody”. The subsequent sections present several case studies of digitisation serving the concept of a chain of custody, organised around the two main theoretical categories of “trust in verification” and “trust in delivery”.

Finally, the text presents a set of recommendations emerging from analysis of the case studies and from discussion in the ETINED context. At the end of the chapter are appendices related to the case studies and evidence from the 2022 ETINED baseline survey on the topic of digitisation.

Risk

Paper transcripts are an invitation to fraud.

(Andrew Hannah, who introduced electronic transcripts at the University of Chicago in 2002)

Since Johannes Gutenberg invented the printing press, printed paper has served us well. Printing diplomas and degrees on paper is an excellent idea, since it is portable and relatively easy to archive. Additionally, paper degrees can be beautifully designed and ceremoniously handed over at graduation. But there are limits to what paper can do. For example, paper documents can easily be tampered with or forged altogether. Often, the only way to detect forgeries is by using sophisticated and costly forensic equipment. Furthermore, a student’s record leaves a paper trail that can be difficult to follow. Questions can arise. If the transcript looks a bit strange, was it really issued by school X? Backtracking the journey of a transcript from its source to the recipient can be time-consuming and difficult, involving lengthy correspondence, especially if the transcript originates in a foreign land. This task can be daunting for staff at universities, evaluation organisations and employers, who may be inundated with thousands of applications per year.

Prevention and trust

Chain of custody [is a] process that tracks the movement of evidence through its collection, safeguarding, and analysis lifecycle by documenting each person who handled the evidence, the date/time it was collected or transferred, and the purpose for the transfer.

(Computer Security Resource Center, USA, at https://csrc.nist.gov/glossary/term/chain_of_custody)

Crime show aficionados are usually aware of the legal term “chain of custody” (or “chain of authenticity”), and the term is also used in the shipping industry, handling of hazardous waste, elections and financial sector. However, the term is not used in

the education sector. At the centre of the chain of custody is the establishment of trust. If the chain of custody is broken, trust is gone. In corruption-ridden societies there is very little trust in documents. Everything can and will be forged, including educational documents.

As has been indicated above, paper documents are inherently flawed and quite useless when it comes to determining the provenance of a document. This is where digital tools come into the picture. The digital trail is much easier to reconstruct than the paper trail, for example by using blockchain technology. There exist numerous digital tools that can ensure trust in educational documents. Nevertheless, it all boils down to two models:

- ▶ trust in verification;
- ▶ trust in delivery.

Trust in verification

Trust, but verify.

(Ronald Reagan, Reykjavik 1987)

This model is based on “born-analogue” documents (such as paper documents) that are authenticated via an online verification portal. (Sometimes QR codes or verification codes are used.) This analogue/digital solution constitutes a low-tech model that is commonly offered by state organisations, institutions and private third parties. This hybrid model works well as a compromise between the past and the present. The model is an option for countries that, for different reasons, want to continue to award paper credentials, yet still take advantage of the benefits that digitisation offers. This model is popular in Latin America, and some countries in Europe have successfully adopted this model, including Ukraine.

Trust in delivery

In contrast to the previous model, trust lies here in the delivery of the credentials. In other words, it is all about protecting the integrity of the educational credentials from tampering during its journey from its issuer to its recipient. This model is based on born-digital documents – not paper. In this context “born-digital” means that documents originate in a digital form. The credentials can be issued by a third party, either by e-mail or through a portal that requires some sort of login and/or password. Furthermore, this model allows for the direct exchange and uploading of student data from digital student data repositories. The latter model makes paper and digital educational documents redundant altogether.

The model encompasses a broad range of solutions at different digital maturity levels; from encrypted PDF files to structured data and blockchain. Furthermore, it offers opportunities for automation of the exchange of student data and the interconnection with other digital ecosystems. This model can be found in Oceania, North America and Europe. In Oceania and North America technical solutions offered by third parties are common, whereas in Europe it is usually offered by state or cross-border organisations instead. In Europe, the EU is promoting this model through the platform European

Digital Credentials Infrastructure. Italy has also opted for this model through the launch of the DiploMe platform, which is based on blockchain technology.

Case studies

Security in electronic exchange outweighs all other benefits combined.
(Monterey Sims, Director of Document Processing, University of Phoenix)

The case studies below show that individual states, as well as universities, can be a driving force in combating credential fraud. Not least, the transnational My eQuals initiative proves that individual universities can find cross-border solutions to solve cross-border problems. The examples are also testimony to a global trend towards replacing paper documents with digital alternatives. Transnational initiatives such as the Groningen Declaration further promote the development of digital solutions in the educational field and give stakeholders practical tools to combat credential fraud.

Case study: EDEBO – A national initiative serving refugees in need

In 2011 Ukraine launched the online verification service EDEBO, the Ukrainian Unified State Electronic Database on Education, which guarantees trust in verification (EDEBO 2023). It was initiated as a top-down state initiative with the objective of creating a nationwide automated system for collecting, registering, processing, storing and protecting educational data.

EDEBO is a student data repository with data from all graduates from Ukraine after 1996 and covers all levels of the Ukrainian education system. Educational credentials printed on security paper are issued to all graduates in Ukraine. The format varies between institutions, but the serial numbers and other data are uniform. This enables employers, institutions and other stakeholders in Ukraine and beyond to verify the authenticity of the credentials presented to them in real time. The service is free of charge and has served Ukrainians well during the pandemic, in peace and in war (EDEBO 2023).

Following the Euromaidan protests in Kyiv in the winter of 2013-14 and the overthrow of the Ukrainian president, Viktor F. Yanukovich, violent separatist movements with backing from Moscow declared independence in the regions Donetsk and Luhansk. In March 2014 Crimea was annexed by the Russian Federation. Civil war and Russian aggression generated 1.5 million internally displaced persons in Ukraine during the period 2014-21. As if this was not enough, the Russian invasion of Ukraine in February 2022 has created the worst refugee crisis in Europe since 1945. With one quarter of the country's population or over 15 million individuals fleeing their homes to either safer parts of Ukraine or other European countries, authorities, institutions, employers and other stakeholders are confronted with huge numbers of Ukrainian educational documents that have to be authenticated.

Conflict-ridden countries like Ukraine usually overflow with fraudulent documents. Schools are sacked, university stamps are stolen and paper archives go up in flames. Employers, universities and evaluation services end up being unable to distinguish

fake from genuine documents, since nothing can be verified. Trust in educational documents is lost. This leaves refugees stranded in a foreign land with educational documents that are worthless. This is the fate of millions of refugees worldwide.

Except for a few weeks in March 2022 when Russian forces were trying to encircle the capital Kyiv, the EDEBO verification service has been operational throughout the war, thus providing invaluable help in the integration of Ukrainian refugees both in Ukraine and beyond. Without this verification tool, the assessment of Ukrainian educational credentials would have been severely hampered, which would have caused additional pain to an already suffering population.

HEDD – a verification service with an alternative fee model

The Ukrainian online verification service is free for the user and funded by the taxpayers. A technically similar service to EDEBO exists in the United Kingdom. The British service is called HEDD (Higher Education Degree Datacheck) and offers verification of degrees from 93% of all British higher education institutions. However, in contrast to EDEBO, the British HEDD requires a user fee of £12 (€14) from employers and recruitment agencies, for example, that want to verify the authenticity of British degrees. In other words, the system is self-funded and does not rely on the taxpayers. The holder of the degree, on the other hand, does not pay anything, and the information is only shared with a third party under the condition that he/she allows it by providing a consent form.

Case study 2: My eQuals – A regional initiative open to the world

[E]cosystem, the complex of living organisms, their physical environment, and all their interrelationships in a particular unit of space.

(Encyclopedia Britannica Online, www.britannica.com/science/ecosystem)

In recent years, economists and IT people have been talking about digital ecosystems and the possibilities of connecting different digital ecosystems. This development has now reached the education sector.

During the Groningen Declaration Annual Meeting in Melbourne, Australia, in April 2017, Australia and New Zealand launched a joint digital ecosystem for student data. This cross-border initiative, which started with four universities (three Australian and one from New Zealand) has now grown to encompass all higher education institutions in both nations. All graduates after 2010 have access to My eQuals. Interestingly enough, the state has never been the driver of My eQuals. Instead, it is a bottom-up initiative from the university sector in Australia and New Zealand.

As part of the graduation ceremony, students obtain educational documents (degree and transcript) in both paper and digital form. Students gain access to their digital documents by logging into their student accounts via the My eQuals portal, which links to the university. It is also possible to log in via Google+, LinkedIn and Metaverse (Facebook). They can then share their digital documents with employers,

recruitment companies, universities and evaluation services via e-mail. The students themselves decide who can access the information and for how long the information should be available. For universities, employers and other stakeholders, My eEquals is a fast, secure and reliable platform for the verification of educational documents. Employers, recruitment companies and assessment organisations can only use My eEquals provided that the student allows it. The authenticity of the educational documents can be checked by employers, recruitment companies and evaluation services via the My eEquals portal or as PDF files. The PDF files are encrypted with digital signatures. These signatures are automatically verified when the document is opened online in Adobe Reader. The My eEquals platform also allows universities in Australia and New Zealand to connect with other digital ecosystems that already exist in Europe, China and North America (My eEquals 2023).

Similar digital ecosystems are under construction in Japan, India and elsewhere. In Africa work is progressing to create a pan-African digital ecosystem for educational documents: the African Qualifications Verification Network (AQVN). The AQVN project, which is led by South Africa, currently covers representatives from 26 countries. The goal of the collaboration is to simplify the verification of educational documents between the countries in Africa by moving away from paper handling and instead introducing digital solutions. This is to be achieved partly by linking the member countries together digitally, and partly connecting to other similar networks outside Africa.

A student's journey in My eEquals

The fictitious student from New Zealand, Zoe, has recently obtained a bachelor's degree from the University of Auckland. Zoe can send her digital degree and transcript directly to the admissions office at York University in Toronto (Canada) for admission to a master's degree programme. Since York University is part of the Canadian MyCreds/MesCertif digital ecosystem that is connected to My eEquals, Zoe's educational documents will easily and securely be uploaded to the admission systems at York. If Zoe also chooses to apply to a programme at Cambridge University (UK) or Stanford University (USA) it goes just as smoothly, since both Cambridge and Stanford are connected to My eEquals as well.

Case study 3: European Digital Credentials Infrastructure – Promoting mobility and trust in Europe

The European Digital Credentials Infrastructure (EDCI) is a digital initiative that was started by the European Union in 2018. The service provides citizens in the EU and the European Economic Area (EEA) with tools to communicate their lifelong learning. The project has the following hallmarks:

- ▶ digitally signed credentials;
- ▶ interoperability;
- ▶ e-wallet;
- ▶ availability in 29 languages.

Additionally, the service includes information about the accreditation status of the awarding body and the identity of the graduate. EDCI is the technical platform that makes this possible, offering verification and seamless transfer of credentials. Higher education institutions can use this infrastructure to issue their qualifications digitally, and it will soon be possible to issue vocational education and training (VET) qualifications.

EDCI data are based on the European Learning Model and common terms used in education and employment in Europe. Citizens can store their credentials in an e-wallet and share them with, for example, employers or evaluation services. The digital credentials are issued both as digitally signed PDF files or as structured data that can automatically be uploaded to admission or application systems. EDCI uses the XML standard format, which can be converted to other standards, such as PESC in Canada and the USA which guarantees interoperability with other digital ecosystems. At present, 2 million EU citizens have e-wallets through EDCI (see EDCI 2023).

Case study 4: DiploMe (Italy)

The DiploMe service, implemented by CIMEA (the Italian ENIC centre) and operational since April 2019, represents the first case of blockchain technology applied to credential evaluation. It aims to provide a “wallet” where people can store certified qualifications with blockchain technology, creating a decentralised, transparent, certified and unchangeable qualification management system. The qualifications and the certificates are uploaded to blockchain by certified authorities (such as universities, ENIC–NARIC centres, national administrations), and the source of the information is always linked to the information itself. In this way the certified qualification, including statements of comparability, becomes easily shareable and portable, reducing the risk of falsification.

DiploMe is built as an open ecosystem, which institutions, awarding authorities and certifying authorities can join without any change in their existing technologies, according to the concept of interoperability. This is possible since DiploMe represents an example of private permissioned blockchain. DiploMe utilises a standard Ethereum blockchain and can run on any Ethereum-based variants.

DiploMe’s user wallet is composed of a standard user blockchain address/account and one or more smart contracts each handling one or more qualifications (DiploMe 2023). The holder of the qualification is the owner of the information and of the cryptographic key that allows access to the saved data, through a mechanism fully compliant with the principles expressed by the General Data Protection Regulation.

DiploMe is integrated through application programming interfaces (APIs) to DEQAR (the database of external quality assurance results), with the long-term goal of creating a digital ecosystem with all the information needed in the assessment of qualifications. DiploMe is an early adopter and its wallet conforms with the European Blockchain Service Infrastructure (EBSI).

Case study 5: EBSI (European Blockchain Service Infrastructure)

EBSI was born in 2018 when 29 countries (all EU member states plus Norway and Liechtenstein) and the EU Commission joined forces to create the European Blockchain

Partnership. EBSI aims to become a “standard” digital infrastructure to support the launch and operation of EU-wide cross-border public services based on by blockchain technology. Since 2020, EBSI has been deploying a network of distributed nodes across Europe, supporting applications focused on selected use cases, ranging from social security to identity. One of the use cases is on diplomas, with the aim of implementing cross-border verification of educational credentials (EBSI 2023).

Case study 6: the Groningen Declaration – A global initiative

The Groningen Declaration Network (GDN) originated in the Dutch town of Groningen in 2012. The elimination of paper in student mobility, the establishment of digital ecosystems (or “trust hubs”) and interoperability have always been at the core of the organisation and this is also reflected in the Groningen Declaration.

During the 3rd ETINED Plenary Meeting in Prague in 2019, Herman de Leeuw, Executive Director of GDN, gave a presentation on the opportunities presented by digitisation in combating fraud. Among other things, he pointed out the problems with paper documents when used for authentication and what digitisation can offer instead. According to Herman de Leeuw the following benefits come together under the term digitisation:

- ▶ authentication of student ID;
- ▶ authentication of educational credentials;
- ▶ authentication of accreditation/quality assurance of institutions/programmes;
- ▶ recipient trust, so that third parties (such as institutions and employers) know that they can trust the data.

Besides the focus on student mobility and digital ecosystems the GDN also takes into account such issues as privacy rights and ownership of data.

Thus far 120 organisations from five continents have signed the Groningen Declaration. The signatories represent national student data depositories, higher education institutions, credential evaluation services government bodies and information technology vendors, including the German DAAD and the French Ministry of Higher Education, Research and Innovation (Groningen Declaration 2023). Under its umbrella further digitisation of student data is discussed, bringing together best practices, pilot projects, task forces and visions for the future. Not least, the annual meetings have been pivotal in changing the digital landscape of the education community. Some of these changes include the establishment of digital learner data depositories and global exchange networks, including My eQuals in Australia and New Zealand.

Conclusion and recommendations

To prevent the use of fraudulent educational credentials, the member states of the Council of Europe can no longer rely on paper. Instead, the way forward is digital. To increase efficiency and effectiveness, the work on this dimension should be as inclusive as possible and it should be inserted in the overall strategies for digital transition that many national authorities, institutions and organisations are undertaking,

and that have been accelerated by the pandemic. As indicated in this chapter, the member states of the Council of Europe have multiple digital tools at their disposal for the prevention of education fraud.

These digital tools come in different shapes and forms, yet all serve one single purpose: ensuring trust in educational credentials. What digital strategy is best suited for an individual state depends on many factors, including financial restrictions. Still, we believe that this question has more to do with priorities than money. In this context, Ukraine's EDEBO verification service is a case in point. Based on discussions at the international level, on the discussion in the ETINED platform and on criteria and recommendations already contained in the explanatory memorandum to the recommendation, a number of indications for actions can be drafted. The following measures refer to the institutional, to the national and to the international level.

- ▶ Reduce or eliminate the use of paper in the exchange of student data.
- ▶ Develop and adopt tools for secure exchange of digital student data, both at national level and at the level of the education institution, as a way to support the verification of authenticity, mobility of students and graduates and the portability of their qualifications. The same should apply to professional certificates and qualifications.
- ▶ The Council of Europe, the EU, the Nordic Council and other intra-state and cross-border bodies need to support and fund state and institutional initiatives aiming to reduce or eliminate the use of paper in the exchange of student data.
- ▶ As far as possible, digital solutions should be centred on the student, giving him/her the possibility to share easily his/her qualification and relevant documents.
- ▶ Have interoperability of digital tools as one of the main principles, favouring whenever possible open and common standards, with digital education ecosystems designed to be flexible, evolutionary and open to possible future innovation. More generally, support discussion on harmonisation and interoperability of standards, criteria and principles in digitisation in education.
- ▶ To establish policies and practices to ensure privacy and protection of personal data in the digitisation process.
- ▶ Adopt policies and practices to support transparency of information on technological solutions adopted in education (for example, where the data are stored, who controls them).
- ▶ Introduce modern technology that makes document checking easy and inexpensive for employers, admissions officers, immigration officials and other stakeholders.
- ▶ Consider digitisation as a basic transversal skill for education professionals, and support training in the field of digital literacy.
- ▶ Support research in the technological innovation field with the aim of eradicating all forms of education fraud and the activities of education fraud providers. The work that the Council of Europe is doing on artificial intelligence could be a reference.
- ▶ Accept digital credentials.

- ▶ Sign and implement the Groningen Declaration.
- ▶ Systems that are developed to integrate structured data from external sources should be able to accept several, different standards, such as EMREX, EDCI, EBSI, PESC and others.
- ▶ Council of Europe member states should consider different ways that best practices can be shared and discussed, as well as new standardisation processes that may aid the development of digital tools to prevent fraud (see also Nordic Council of Ministers 2020: 17).

Appendices to Chapter 5

Appendix 5.1 – Trust in verification by country

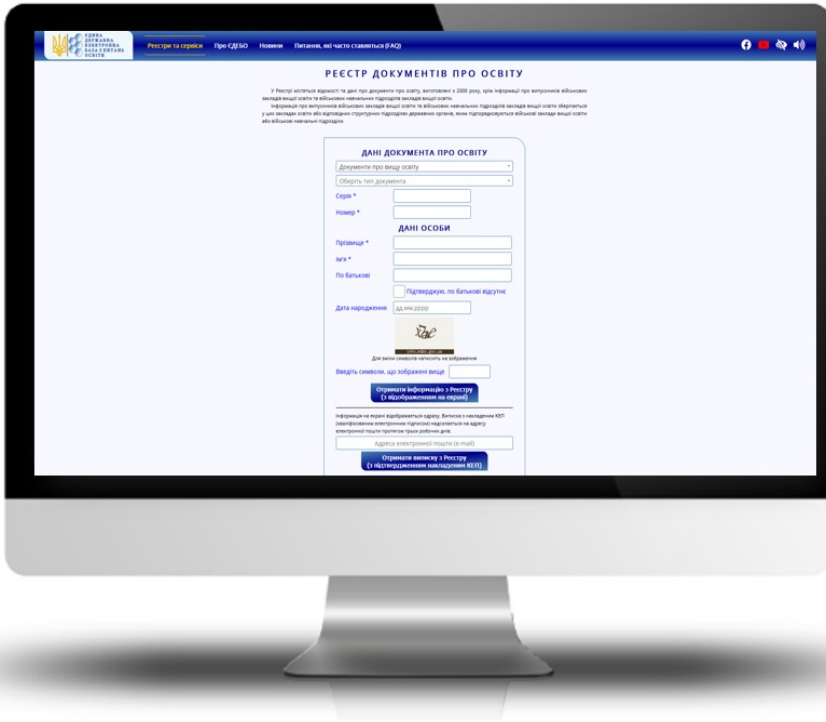
Figure 14 – Countries in Europe that offer verification services for educational documents



Created with mapchart.net. Blue = Countries in Europe that offer verification services for educational documents.

Appendix 5.2 – Trust in verification: EDEBO online services (Ukraine)

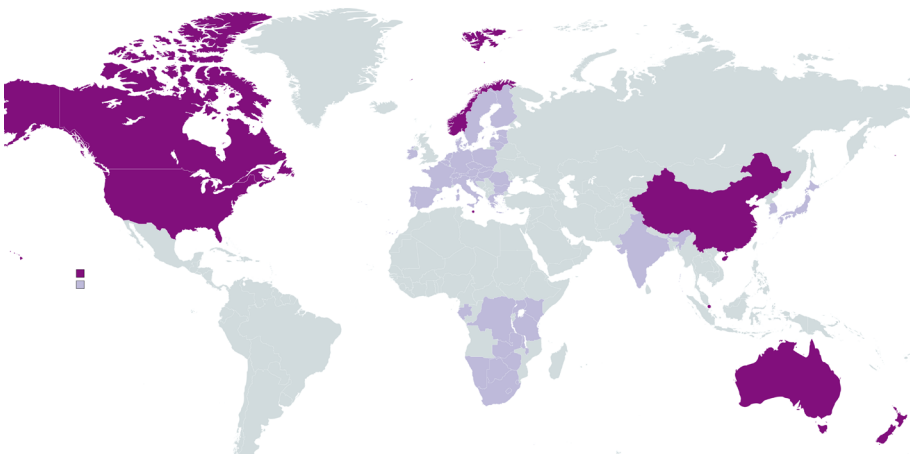
Figure 15 – Trust in verification (EDEBO)



© State Enterprise "Inforesurs" 2018-2023 for EDEBO (screenshot from <https://info.edbo.gov.ua/edu-documents/>)

Appendix 5.3 – Trust in delivery

Figure 16 – The “trust in delivery” model is common in North America



Created with mapchart.net

Dark purple = operational; light purple = planned

Appendix 5.4 – Evidence on digitisation from the ETINED 2022 baseline survey

The use of digital solutions for student data exchange and for countering education fraud was not specifically addressed in the survey. However, respondents also provided a little information on this topic.

Legislation

Two countries reported having legal provisions in education covering the use of digital solutions, while a third country reported having legal provision but covering mainly tools to detect plagiarism. A fourth country referred to the regulation penalising forgery of documents. Another country referred to the possibility by law to revoke degrees and titles if they are found to have been obtained fraudulently.

Practices and tools

Regarding practices and tools, one country referred to the use of a digital solution for recognition of foreign credentials, while another answered that digital solutions for student and graduate data are being put in place, which may be the most efficient solutions to prevent education fraud.

Information

Looking to information provision and guidelines, one country has guidance on degree fraud for education providers, while another country reported that the provision of relevant information is supporting prevention of education fraud. A number of countries referred to the role played by ENIC–NARIC centres in this regard. Another country answered that universities and institutions need support for the full digitisation of the study process.

Co-operation

At national level, one country referred to the existence of a National Academic Integrity Network that deals with the issue of education fraud. Shifting to international co-operation, one country reported having a bilateral agreement with another European country to tackle document fraud among students coming from a third country.

Awareness

One country referred to the role of news media in building awareness of the phenomenon. Regarding research, another country answered that there is an ongoing study on degree fraud and bogus providers, including three main dimensions: 1. looking into suspected bogus degree providers and degree fraud, and liaising with appropriate enforcement bodies; 2. raising awareness of bogus degree providers and degree fraud with students, registered HE providers and the wider public; 3. liaising with stakeholders to raise international awareness and developing a strategy for tackling bogus degree providers operating in the country.

Resources

Essential bibliography

CIMEA (2018a), *Guide on diploma mills and other dubious institutions* (FRAUDOC project).

CIMEA (2018b), *Handbook on document fraud for credential evaluators* (FRAUDOC project).

Nordic Council of Ministers (2020), Ad Hoc Group on Digitalisation, “Digitalisation in recognition”, policy paper, available at <https://norrpic.org/nordic-report-looks-into-digitalisation-in-recognition/>.

NUFFIC (2020), Digital student data and recognition: a White Paper for the ENIC–NARIC networks, available at www.nuffic.nl/en/subjects/recognition-projects/digirec-concluded.

Other resources

The Groningen Declaration website, at www.groningendeclaration.org/

Higher Education Degree Datacheck (HEDD) website, at <https://hedd.ac.uk/>

My eQuals website, at www.myequals.edu.au/

MyCreds/MesCertif website, at <https://mycreds.ca/>

Chapter 6

Active assessment

Phil Newton

Using assessment design, awareness raising and training to reduce the risk of education fraud

Background

Assessment is designed to fulfil multiple needs. It serves a powerful formative role in learning, allowing both students and teachers to see where they have succeeded, and where perhaps more effort and education is needed. Assessment provides a verifiable account of what individuals can do, legitimating or validating the competences of individuals who need to have specific skills, qualifications and experience. Assessment also forms a gatekeeping role to allow (or deny) entry to certain specific professions or to further study. In order to achieve all of these things, assessment needs to be reliable, authentic and fair. Most importantly, assessment needs to be valid: a true reflection of the desired learning.

Assessment cannot be valid, fair or reliable if it is subject to fraud. Thus an effective assessment is one which is resilient to fraud. This chapter is designed to provide guidance on the design of assessments that are more resilient to fraud and misconduct and the training methods that may be delivered to achieve that.

This guidance is made on the basis that prevention is preferable to, and better than, prosecution. Technological and policy advances can help to detect and catch students who have engaged in misconduct, but the issue evolves and moves (Birks et al. 2020). The policing and pursuit of educational fraud can cause great harm to all concerned, through the diversion of resources, the stress and anxiety generated and reputational damage.

No assessment method is completely immune to fraud (Ellis et al. 2020), but there are some principles of effective assessment design that should make fraud harder, and may also then improve the ability of an assessment to deliver on the primary aims of supporting learning and gatekeeping to the professions.

Online education

There has been a steady growth in online education over the last generation. Online education offers many potential benefits, for example increasing flexibility and access, reducing some costs. However, online education offers a distinct set of challenges when it comes to assessment. These were starkly exposed in 2020/21 when there was a sudden, global, unplanned and yet almost total shift to online assessment

methods during the lockdowns associated with the Covid-19 pandemic. There was a spike in media stories reporting an “epidemic” of cheating (Harwell 2020; Henry 2022), and students themselves expressed concern about the security, and thus validity, of online assessments during the rapid shift to online assessment (Brown et al. 2022).

These concerns seem to be supported by the data, since preliminary findings suggest that substantially more students have admitted to cheating in exams during the pandemic, motivated in large part by the ease with which cheating could occur (Newton and Essex 2022).

Paradigm

This chapter is anchored in the pragmatic paradigm. Pragmatism is a philosophical approach that prioritises practical, real-world outcomes (James 1907). A pragmatic, evidence-based approach to education research, policy and practice is one then that prioritises practical recommendations and actions based on sound evidence, with consideration of the practical implications such as cost and feasibility (Newton, Da Silva and Berry 2020).

Written assessments

Much of the language, policy and practice around educational fraud has focused on written assessments such as essays. These are generally completed asynchronously and submitted online. This format has been particularly associated with the assessment of higher order learning in advanced undergraduate and postgraduate degrees.

Unfortunately, written assessment and related forms of coursework are now largely redundant as an assessment method. Multiple different, serious threats to the integrity of these assessments have undermined their validity. Plagiarism is perhaps the most obvious and is extremely common (Foltýnek et al. 2019). However, more sophisticated methods of misconduct affect written assessments disproportionately, including contract cheating (Newton 2018) and the use of artificial intelligence or bots to write assessments (Sharples 2022). Unless the central aim of an assessment is to teach a student to write (itself an important skill), then there is a need to replace these forms of written coursework as a means of assessing students at any level of education. Much of this chapter then is focused on providing meaningful alternatives to written assessments.

Definitions of key terms in assessment

Various key terms are defined here in lay language. The focus is on those terms that are important for understanding the remainder of the chapter.

Learning outcome

This is a short statement about what it is that a learner should be able to do by the end of a learning/teaching activity. It should be written in language that facilitates assessment, by describing an observable behaviour. For example, I hope that you learn something from reading this chapter. So a learning outcome from reading this chapter might be to “know some principles of assessment design to reduce academic misconduct”. However, it is difficult for me to “know” what you “know”; this

is not directly observable (Bloom and Krathwohl 1956). Instead then, an appropriate learning outcome might be for you to be able to “list some principles of assessment design”, or to “design an assessment that reduces the likelihood of fraud”. The verbs used in these examples (“list”, “design”) describe behaviours that can be observed, and are often mapped to “levels” of learning (see below and Table 1).

Constructive alignment

This is the simple but fundamentally important idea that assessment should be aligned with the learning outcome, that is, aligned with what it is that the students should be able to do by the end of a teaching session. The teaching itself is then also aligned with the learning outcomes and the assessment (Biggs 1996). Ensuring the alignment of these three items is an essential part of planning any learning and teaching activity, and an essential part of the selection and design of an appropriate assessment for the learning outcome.

Validity

This is, basically, how closely an assessment measures whatever it is that it is supposed to measure. For example, if an assessment is designed to measure core factual knowledge, then a basic multiple-choice test may be a valid assessment method. If an assessment is designed to measure how well a student can perform a practical task, then essays and multiple-choice tests are less valid. Validity is the most important principle of assessment design.

Reliability

How likely is it that the same student, taking the same assessment under the same conditions, would again get the same mark? It is not possible for an assessment to be valid if it is not very reliable, although it is possible for an assessment to be reliable without being valid. This factor is influenced by multiple considerations, and some assessments are inherently more reliable than others. For example, an exam based on multiple-choice questions and marked automatically is almost certainly going to be more reliable than a practical exam marked subjectively, but the practical exam may still be more valid, for example if the assessment is designed to assess how well a student can perform a particular task.

Summative assessment

This is the type of assessment that carries credit and is normally used for decision making concerning grades, passing/failing, progression, etc.

Formative assessment

Assessment that carries little or no credit and so is used for practice, for feedback (two-way) and the promotion of learning through retrieval practice (see below).

Authenticity

This is, essentially, designing assessment tasks that have features resembling real-world activities, rather than being purely academic. Examples of authentic assessments

might include creating a website, writing research proposals or tender bids, curating a virtual exhibition or designing and running an online shop (Bloxham and Boyd 2007: 193-5). Authenticity has been frequently proposed as a way to make assessment more resilient to fraud. This does not appear to be particularly effective when it comes to outsourcing/contract cheating, although assessments with very high levels of authenticity may be more difficult to outsource (Ellis et al. 2020).

Inclusivity and equitability

An effective assessment will allow all learners to demonstrate their learning, preferably without the need for multiple formats and rules to accommodate particular characteristics. There is a pragmatic aspect to this “universal design” feature which is that, by having only one format, the administrative load should be reduced.

Level of learning

There is normally some consideration made about the level at which an assessment is set. Numerous different hierarchies have been developed and deployed to map these levels. Perhaps the most common is Bloom’s Taxonomy, which was devised as a way of making learning visible and measurable, and so making the assessment of learning more objective (Bloom and Krathwohl 1956). The original 200+ page taxonomy is normally now reduced to a hierarchy of verbs for the creation of learning outcomes, the implication being that tasks which are constructed using verbs from the top of the hierarchy are more likely to be developing higher order learning than those using verbs from the bottom of the hierarchy (see Table 1). This does not mean that lower order learning is unimportant; it is difficult to develop higher order learning without having a basic (lower order) knowledge (Willingham 2006), but the teaching and assessment methods are likely to be different.

Table 1 – Hierarchical master list of verbs used to write learning outcomes mapped to Bloom’s Taxonomy (adapted from Newton, Da Silva and Peters 2020)

rate, evaluate, assess, judge, justify	EVALUATION
create, compose, argue, design, plan, support, revise, formulate	SYNTHESIS
analyse, question, differentiate, experiment, examine, test, categorise, distinguish, calculate, contrast, outline, infer, discriminate, compare	ANALYSIS
operate, apply, use, demonstrate, solve, produce, prepare, choose	APPLICATION
translate, paraphrase, discuss, report, locate, generalise, classify, summarise	COMPREHENSION
list, define, recall, state, label, repeat, name	KNOWLEDGE

Retrieval practice and the testing effect

Learning is enhanced by frequent use of activities that prompt a learner to bring to mind their relevant existing knowledge or skills. The effectiveness of this powerful evidence-based principle has been demonstrated repeatedly across multiple different contexts, for example in different disciplines and levels of education (Adesope et al. 2017; Rowland 2014). A simple way to utilise the power of retrieval practice is through tests, and the result is often known as the “testing effect”, although many other methods can be used. Simple, formative, practice quizzes can be used to deliver this, in particular where students write their own testing materials for themselves and their peers.

Assessment design principles to promote academic integrity and reduce the likelihood of fraud and misconduct

The focus here is on principles that can apply to all assessment formats, though format-specific guidance is also identified.

Focus on what learners can do

Applying the basic principles of assessment design, as described above, is a good first step. For example, writing effective learning outcomes, aligned to the assessment, should result in assessments that are focused on observable behaviours, that is, what students can actually do (active assessment). Having in-person assessments where the learner is present, either remotely or physically, is a proposed feature of assessment designs which make misconduct harder (Newton and Lang 2016). This naturally leads to a reduction in the use of asynchronous written coursework such as essays, the format which is perhaps most vulnerable to fraud. Practical assessments are often expensive to administer, and so may not be appropriate for all assessments, but even multiple-choice tests can be administered in an active way that assesses higher order learning such as problem solving and the application of knowledge (Newton and Xiromeriti 2022).

Positive credentialing

The first step in positive credentialing is to prioritise actions to ensure that the correct person is completing the assessment. This is also facilitated by focusing on what students can actually do, since that lends itself to in-person assessments. Weak credentialing is associated with asynchronous, online assignment submission for written coursework, where limited checks are made that the person submitting the assignment is the one who actually wrote it.

Where assessments are conducted online, then some form of remote invigilating system can be used to credential the test-taker, although continuous monitoring using these systems is associated with increased test anxiety (Conijn et al. 2022) and has been subject to legal challenge on the basis of privacy concerns (Carter 2022; Stewart 2020). Alternatives include the use of authentication methods commonly used in other online services, such as two-factor authentication and “captcha” systems using image-based questions (Ullah et al. 2019).

Different assessment formats

Multiple authors have attempted to define and classify assessments into different formats. Race, for example, lists 16 different assessment processes for higher education (Race 2014: Chapter 2). Bloxham and Boyd identify 61 different assessment methods, including five different examination formats and three formats for writing tasks (Bloxham and Boyd 2007: 205). One recommendation given to reduce fraud is to increase diversity in assessment formats across a programme, which has an additional pragmatic benefit of increasing the numbers of different skills which can be assessed.

Frequent assessment

In particular, the use of low-stakes or no-stakes formative assessments has a number of benefits. Most important is the powerful developmental effect it has on learning, by delivering the benefits of retrieval practice, and also by giving students and educators more frequent feedback on how their learning is progressing. By strengthening and prioritising learning, we create conditions where the motivation to commit fraud is reduced. Also, test anxiety is a commonly cited contributing factor to student motivation to commit educational fraud.

By giving students experience and familiarity with assessment formats and procedures, and feedback on how they are progressing, this stress should be reduced.

Refresh and revise

Changing the format and specific details of an assessment is common advice given to academics as a way of making it harder for fraud to occur (Zobel and Hamilton 2002), specifically by making it less likely that past versions of papers will be available on so-called “homework sites” where students submit versions of past papers in return for access to additional content (Lancaster and Cotarlan 2021; Newton and Lang 2016). This principle applies across any and all assessment formats, including exam questions, which can also be shared and so be subject to fraud, particularly in an era of online assessment.

Cloned assessment formats

Using multiple versions of the same question is recommended as a way of reducing fraud, for example where exam questions ask students to undertake a calculation or some other analysis. Using different sets of starting/input data can then make it harder for students to share answers (Hoseana et al. 2022).

Higher order learning

Writing learning outcomes that map higher up Bloom’s Taxonomy, and then aligning assessments to those outcomes, is proposed as a way of making assessment resilient to fraud (Varble 2014; Whisenhunt et al. 2022). This seems to be effective for online open-book multiple-choice tests (Newton and Xiromeriti 2022).

Open-book assessments

A basic problem in educational assessment fraud is that student learning is commonly assessed under “closed-book” conditions, meaning that students are assessed without access to any materials except for whatever is provided by the test administrator. The student is essentially being assessed on what they have learned, but often not on what they can do with that knowledge, except to use it to write answers to questions. Students are normally prevented from accessing other materials, such as notes, textbooks, the internet and their peers. Violations of academic integrity commonly involve students attempting to access those unauthorised materials during an assessment.

One approach to assessment design that theoretically eliminates many of these problems is to make assessments “open book”, meaning that students are free to access whatever materials they want in order to complete an assessment. Of course if open-book assessments are not properly designed then they can make fraud easier, rather than harder. A key feature of open-book assessments is that they focus on features of higher order learning such as problem solving, critical appraisal and the application of knowledge (Bansal 2022).

Exam design

There are a number of assessment design features that are designed to reduce fraud in exams. These are more to do with the structure and administration of the exam rather than the design of the assessment items themselves. These include the use of time limits and question banks, wherein a pool of exam questions is created and each student then gets a different set of questions from within the pool. As ways to reduce fraud in online exams, it is recommended to set them up so that students can answer only one question at a time, and cannot go back to questions asked previously (Munoz and Mackay 2019; Sabrina et al. 2022; Whisenhunt et al. 2022).

Specific recommendations

The remainder of this chapter is organised around the actions proposed in the appendix to the headline Recommendation CM/Rec(2022)18 (Council of Europe 2022b). Each of the sub-recommendations within the main document provides a useful framework around which to organise some further principles of assessment, design, awareness raising and training, and to add some detail. Each will be considered in turn, with specific recommendations made on the basis of the evidence in the research literature addressing that particular sub-recommendation.

Recommendation 4. Training

This recommendation urges member states to ensure that adequate training is available to all relevant professionals for the prevention of education fraud and the fostering of ethics, transparency and integrity. The need for training links in with Recommendation 5 on plagiarism.

Recommendation 5. Plagiarism and the use of plagiarised documents and content

This recommendation focuses on support for staff, students and institutions, through both educational and legislative approaches. There is an emphasis on the growing use of online education and assessment, clearly accelerated by the Covid-19 pandemic and the war in Ukraine.

Students are confident that they understand what referencing and plagiarism are, but this confidence is misplaced (Newton 2016). Students also show a limited understanding of collusion (Parkinson et al. 2022), contract cheating and self-plagiarism (Sanni-Anibire et al. 2021). Academic staff expect students to have a good understanding of the principles of academic writing and referencing (Peters and Cadieux 2019) and yet staff themselves do not appear to be formally trained about the principles of academic integrity (Ransome and Newton 2018). A lack of understanding then contributes to students committing misconduct and getting caught (Beasley 2014), and a lack of consistency in approach by staff then also contributes towards further cheating (Dannhoferová et al. 2022). A lack of student understanding and the associated risks are associated with increased student anxiety (Sanni-Anibire et al. 2021). More training is clearly needed.

However, there is a need to develop the content of student training beyond a narrow focus on plagiarism, to include a wider range of issues, such as contract cheating and the underlying values of academic integrity – not just what it is but also why it is important (Sefcik et al. 2022). Here again there is potential for a pragmatic approach, since a long-established principle in education is that “assessment drives learning” (Frankland et al. 2007; Wormald et al. 2009). A pragmatic approach to this principle then is to drive students’ learning about academic integrity by building it into the portfolio of assessment. This can be prioritised by designing assessments which only assess academic integrity skills such as referencing, and by making those assessments summative.

Educating students about effective assessment design, and the underlying principles, can also help with retrieval practice. For example, encouraging students to write their own assessment items can promote retrieval practice and create a pool of practice materials for peers (Kelley et al. 2019).

There is also considerable potential for staff training. Even short training courses can increase staff confidence and awareness of academic integrity (Curtis et al. 2022), and staff training can improve assessment design skills and application (Parkes 2021).

Recommendation 8. Codes of ethics

This recommendation is aimed at all stakeholders and encourages the use of legislation or regulations to support the codes.

There is a long history of the use of so-called honour codes to promote academic integrity among students, particularly in North America. An honour code is defined as:

a community code of conduct guided by ethical principles defining the expectations for students to act with honesty and integrity and acknowledging the shared responsibility of all members. (Tatum 2022)

Students will typically sign up to the honour code early in their academic career; thereafter, repeated reminders or “repledging” will serve to embed the principles. The code may cover more than just academic integrity, often extending to other areas of student behaviour on campus. Honour codes are proposed as an evidence-based approach to promoting academic integrity and reducing fraud (Tatum and Schwartz 2017), and a recent review concluded that they are effective (Tatum 2022).

However, the majority of this research comes from North America and is subject to multiple confounding factors. Perhaps most important of these is that honour codes likely serve an educational purpose and so may lead to an increase in reports of fraud, as students and staff become aware of what fraud looks like (Melgoza and Smith 2008). Testing the effectiveness of honour codes requires rigorous and thorough research designs, and this has often not been the case (Barnard-Brak and Paton 2012). There has been far less research into the use of honour codes outside the North American context, and the outcomes have been mixed (Brimble and Stevenson-Clarke 2005; Đoković et al. 2021; Yakovchuk et al. 2011).

There is no doubt that honour codes have the potential to serve many aims of the recommendations made here, including raising awareness and understanding of the principles and importance of academic integrity and fraud. There is also a basic legislative angle to the use of honour codes, since they give education providers a consistent forum for the delivery of their responsibilities in education and awareness raising. Cultural considerations may mean that ideas and opinions need to be developed by a public debate at local and/or national level to determine how to make the best use of the potential of honour codes.

Recommendation 9. Education terminology

This recommendation declares that member states “should take any necessary steps ... to ensure effective protection of all relevant terminology ... within their education systems”. The emphasis is on institutional and academic titles (for example, use of the term “university”) and the nomenclature used for awards and qualifications (for example, “PhD”).

A number of different Europe-wide initiatives have been developed in the last 25 years to facilitate student mobility and credit transfers between institutions, disciplines and countries. These have necessitated the development of a common European language for many areas of assessment and credit. A natural extension of this, to reduce fraud, is to extend the common language to include terms relating to assessment design, educational fraud and academic integrity. The European Network for Academic Integrity (ENAI) has developed a glossary of relevant terms for instant use (Tauginienė et al. 2018).

Recommendation 10. Public health, safety and the education of future generations

“Professional” educational qualifications, such as those in medicine and law, are often prioritised for consideration when it comes to educational fraud because it

could lead directly to harm, due to the perceived significance of the consequences when, for example, a doctor, nurse or lawyer obtains a qualification that is wholly or partly based on fraudulent assessments or qualifications.

To protect against these situations, many professional qualifications, and the professions themselves, include the teaching, learning and assessment of “professionalism”. The precise details of professionalism vary by field and cultural context, but there are some common themes, such as an understanding and enacting of ethics, a professional interaction with key stakeholders and a commitment to professional development. These factors are commonly assessed by various means including direct observation, feedback from stakeholders and the recording of incidents of unprofessional conduct (Wilkinson et al. 2009).

These principles could easily be adapted to any/all educational fields to include an assessment of the understanding and enactment of the principles of academic integrity, facilitated by projects such as the Council of Europe Best Practice Programme for the Promotion of Academic Integrity (Council of Europe 2022a) and the afore-cited ENAI glossary. Again this pragmatic approach takes advantage of the basic principle that learners are motivated by what is being assessed, but this approach also then signals to learners that educators and employers value these principles.

Recommendation 11. Whistle-blowers

The emphasis here is on ensuring that there are free, fair and impartial processes for the facilitation of whistle-blowing and the protection of all involved.

Here again, education and training about assessment design are essential. Whistle-blowing often invokes an analogy of a sporting event, where a referee blows the whistle to indicate a transgression of the rules or conventions. For this to be effective, the referee requires a deep understanding of those rules and conventions. The content above indicates that many stakeholders, in particular staff and students, do not have that understanding and so may not recognise fraud in the first place. This raises an additional problem for whistle-blowing where the alleged fraud is being conducted by people who themselves were unaware of the rules and conventions.

Here again, prevention is better than prosecution, and so developing this understanding, early and deeply, in all stakeholders will ensure that whistle-blowing remains an avenue for the pursuit of legitimate and serious cases.

Recommendation 12. Use of digital solutions

This recommendation is largely focused on the credentialing of students through digital means, as a way of countering the widespread fraud that undermines the use of paper documents. However, the use of digital solutions extends also to assessments; therefore, appropriate credentialing of students when they take assessments, and a clear digital record of their achievements focused on what they can actually do, will make education systems more resilient and resistant to fraud.

Recommendation 13. Research

There is an urgent need for research to understand the most resilient forms of assessment, and the factors which are associated with fraud and misconduct. This research needs to go beyond subjective reporting surveys from students about the types of cheating that they have engaged in. That sort of research is undermined by a number of fundamental biases, for example, the lack of a representative sample and over-representation of participants whose demographic criteria do not match those of people who traditionally cheat in assignments, as well as small sample sizes, inadequate analysis and so on (Krásničan et al. 2022; Newton 2018; Newton and Essex 2022).

Research would be facilitated by the enactment of many of the other recommendations, in particular Recommendations 14-17 (International co-operation; Data collection; Monitoring; Evaluation and review). This would lead to better data collection, availability and transparency, and so fuel better research.

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Federation (including Chechnya), Serbia, Slovakia, Slovenia and Ukraine. He acted as an evaluator of proposals under TEMPUS for the European Commission. Within the framework of the ETINED platform he has assisted several countries in developing legislation and policy on education fraud and helped to develop the 2022 Committee of Ministers recommendation on education fraud. Born and educated in England (BSc, LLB, LLM, Advanced Diploma in Education) and Northern Ireland (PhD), he entered government service in 1972, working mainly in Northern Ireland, before returning to higher education in 1981. He worked in universities in England and Scotland until 2002, followed by 20 years in the Republic of North Macedonia where, after acting as one of the founders of the South-East European University and as its first Secretary-General, he was attached to the university's Faculty of Law, acting as Dean for two mandates, and acted as the university's Pro-Rector for Research, finally serving as President of the University Board and President of the Audit and Risk Management Committee from 2008 to 2020. He has co-authored three editions of *The Law of Higher Education* (Oxford University Press), also publishing a number of articles on governance, legislation, the legal status of students and developments in higher education in South-East Europe, while also contributing to conference papers and comparative studies on higher education in Europe (Austria, Belgium, France, Germany, Greece, Ireland, Poland, Switzerland), the United States, Australia and New Zealand.

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In July 2022, the Committee of Ministers of the Council of Europe adopted Recommendation CM/Rec(2022)18 aimed at assisting its member states in combating fraud in the field of education. The recommendation followed four years of work in the framework of the ETINED platform of the Council of Europe on ethics, integrity and transparency in education, and addresses the need for a common European approach in this field.

This new international standard is structured in four dimensions: prevention, prosecution, international co-operation and monitoring. The text makes six main recommendations to member states of the Council of Europe:

- ▶ to promote high-quality education by eliminating education fraud;
- ▶ to protect pupils, students, researchers and staff at all levels of education from organisations and individuals engaged in selling (and advertising) fraudulent services;
- ▶ to provide support for the implementation of preventive and protective measures, as well as a culture of equality of opportunity at all levels and in all sectors of education and training, and in the transition between these sectors;
- ▶ to monitor technological developments that could support new forms of fraud;
- ▶ to facilitate international co-operation in the field;
- ▶ to support wide dissemination of the recommendation.

The research studies in this book analyse the situation in countering education fraud in some member states at the time when the recommendation was adopted and give suggestions for consistent implementation of it in the future.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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