

Legislative Initiatives in HE – Comparative Perspective

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Principles 1

- **HE laws cannot be isolated from the rest of the legal framework (Constitution; Education laws; Other laws) and cultural, social and political framework.**
- **In some MS no primary legislation is needed to give effect to the EHEA, as institutions have academic autonomy within funding and quality frameworks**
- **In at least one MS institutions have proceeded to adapt to EHEA (ECTS, cycles, etc) without waiting for legislation: illustrates importance of institutions in the process**
 - **so comparison is difficult!**

Principles 2

- No overarching European framework or basis in international law
 - Conventions (particularly Lisbon)
 - Inter-governmental agreement
 - No legal basis for Declarations
- Different forms of implementation
- Reflect global rather than just European changes in higher education

Caveats to comparative analysis

- **Mass of material**
- **Unrelated to other relevant material**
- **Some texts not in English**
 - **Mistakes or errors of interpretation are inevitable**
 - **Final report will attempt to correct these**

Starting Points

- **1. CoE LRP analysis, pre-EHEA, based on law reform 1992-1998 in CEE countries**
- **2. Existing legislation of non-LRP states**
- **Assigning competence:**
 - Primary legislation
 - Secondary legislation
 - Statutes etc
- **Identify essential elements of top-level law or regulation**

Pre-EHEA Top level regulation

- **Autonomy and academic freedom incl. protection of staff and student rights**
- **Establishment and regulation of h.e. ('public' and 'private')**
- **Basic principles of governance**
- **Funding principles incl. fees, audit, reporting, accountability**
- **Quality principles (incl. licensing & accreditation)**
- **Recognition, mobility, etc**

EHEA top level regulation

- **Include**
 - **Qualifications framework**
 - **Easily readable degree system**
 - **2 (3) cycle degree structure**
 - **ECTS or equivalent**
 - **Co-operation in QA/QE**
 - **Power to award and recognise joint degrees**

Variations in laws

- From
 - No regulation at all
- Via
 - Framework laws
- To
 - Detailed regulation (many examples): what is left for the statutes?

Example of legal provision: power to award Joint Degrees

- ‘Joint degrees’ is a misnomer: often degree is awarded on the basis of mutual recognition of credits ‘where the music stops’
- Some restrictions on residence, etc
- Depends on national legislation including questions of national accreditation

State not using primary legislation: UK

Charter gives [power] [to] join with any other University or with any other public or private body, institution, authority or association having in view or promoting any purpose the same as or similar or related to any purpose of the University,for such purpose as may be agreed upon or as may be provided for or permitted by law, on such terms and conditions as may from time to time be prescribed by the Statutes or Ordinances of the University.

State using primary legislation - Austria

Art 87(5) Universities Act 2002:

“If a student successfully completes a dual diploma degree programme comprising up to 120 ECTS credit points of which at least 30 were obtained under the auspices of a foreign counterpart institution, or more than 120 ECTS credit points of which at least 60 were obtained at such institution, then the award of the degree may be evidenced by a certificate jointly issued in conjunction with the latter.”

The results of analysis

- **Almost all MS have adopted, either through legislation or otherwise, a framework including the 2/3 cycle structure**
- **Most MS are adopting ECTS or a CTS easily readable within ECTS**
- **Most MS have QA in some form in legislation, although not all have recognised the international dimension**
- **Most MS make some provision for mobility**
- **Most MS have not provided for award and recognition of joint degrees in the true sense**

Issues not fully included in MS laws

- Distinction between 'academic and social imperatives' and 'economic imperatives' private h.e.
- Joint/collaborative q.a./q.e.
- Funding of change
- Joint degrees
- Mobility of student support

Issues for consideration

- Should there be a framework of principles?
- How do we assist applicant MS so they do not have to 'reinvent the wheel'?
- How can we secure maximum autonomy with accountability for universities?
- Could we/should we extend the processes globally (is there a EHEA/GATS conflict?)