

Harmonisation, Quality Assurance
and Accreditation in Africa



HAQAA-3 POLICY BRIEF SERIES on Continental and Regional Integration in African Higher Education

Policy Brief n.1

Unpacking “Recognition in HE”: different issues, different policy contexts, different instruments: A policy-oriented eye opener

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INTRODUCTION

Recognition is one of the dominant topics in the discussion of continental and regional integration in African Higher Education (HE). Chapter 3 of the HAQAA Materials on Continental and Regional Integration in African Higher Education (the “HAQAA Materials” <https://haqaa2.obsglob.org/wp-content/uploads/2023/02/Materials-on-African-Regional-and-Continental-Integration-in-Higher-Education-1.pdf>), written by professor Juma Shabani, identifies it as one of the three main topics that have been addressed in the HE area in the framework of African continental/regional integration, the other two being *Harmonisation, Homogenisation and Convergence Processes* and *Integration and Networking of academic and research institutions and infrastructure*. And the HAQAA Materials have dedicated their 8th chapter (in actual fact, two chapters: 8a and 8b), written by one of the best specialists on the topic, Professor Howard Davies, to a detailed discussion of Recognition in the European context.

This is why the topic chosen for the first Webinar of the HAQAA African Network on Continental and Regional Integration in African HE (the “HAQAA African Network”) was ***The three aspects of Recognition and how to tackle them in the African context***. This Policy Brief, written under the sole responsibility of his author, as all HAQAA-3 Policy Briefs, takes into account the discussions in that webinar.

ANALYZING “RECOGNITION”: THREE DIFFERENT HE POLICY ISSUES

The term “Recognition” embraces three different issues when applied to diplomas or qualifications in HE. They must be clearly distinguished in order to discuss, from the perspective of African Continental and Regional Integration, the right policy frameworks and the needed or best instruments to tackle them.

- First, a very neat distinction must be drawn between the **academic** and the **professional effects of diplomas**. The distinction must be discussed by reference to ***the effects***, not the diplomas themselves. Indeed, Recognition (of effects) falls very short of the procedure and result named in some countries, Spain for example, “*Homologación*” (of diplomas), by which (as it would be the case with “naturalization” for citizens) the “nationality” of a host State is awarded (with the totality of effects) to a diploma of a foreign country.¹
- Second, as far as the academic effects, a distinction must also be drawn between those of the **diplomas** required to access further periods/stages of instruction and those of **credits/disciplines** that are components of one programme leading to the obtention of a diploma.

¹ Social reality is in continuous evolution, breaking through the frameworks construed for its analysis. In the last few years, and in some countries, a very new type of effects of diplomas and academic certificates (and of recognition) has emerged: effects and recognition for migration purposes, which are becoming more and more a lucrative business for migration/emigration agencies making a lot of money. This brief does not tackle this.

THE DISTINCTION BETWEEN THE ACADEMIC AND THE PROFESSIONAL EFFECTS OF DIPLOMAS

The ***professional*** effects of academic diplomas are, in most if not all countries, a heavily regulated area (with, very often, different regulations for the different diplomas/professions). Furthermore, on the basis of this regulation, powerful institutions and bodies (mainly professional bodies) have been created, which press for the continuation, or even the strengthening, of these national regulations. **The application of this set of regulations lies outside the remit of Universities and other HE institutions (HEIs).**

The ***academic*** effects of diplomas and qualifications in order to pursue studies is much less regulated (depending on the degree of autonomy conferred in each country to Universities and HEIs). And, in any case, it belongs to Universities and HEIs to apply the regulations.

Two unquestionable conclusions stem from this distinction:

- The weight and importance of legal rules is much greater in the area of the professional effects of diplomas, while the weight and importance of Universities' own action is much greater in that of the academic effects of diplomas.
- The professional effects of diplomas play a decisive role outside the higher education system; the area in which they are decisive is that of the organization of economic activities. On the contrary, the academic effects of diplomas play their role within the higher education system and its organization.

THE DISTINCTION BETWEEN DIPLOMAS AND THEIR COMPONENTS (CREDITS/DISCIPLINES) AS FAR AS THEIR ACADEMIC EFFECTS ARE CONCERNED

Universities are very complex institutions in their inner operation. The complexity certainly depends on their internal organization, and whether this is conceived more or less "top-down" (with a very strong and legitimate central authority from which emanates all decision-making power) or more or less "bottom-up" (with the authorities getting their legitimation from below, mainly by election by the members of the University community).

However, even taking this into account, a clear distinction must be established between the ***effects of diplomas***, which concern Universities as a whole (or at least their Faculties or Schools), and ***that of the components of the diplomas (credits/disciplines)***, which concern individual Departments or even professors. If one University accepts the diploma issued by another University in order to give access (only "access", of course, not "the right to be admitted"), to a higher level of instruction, this does not detract from the value of its own diploma. But if a credit / discipline obtained in another University is "recognized" as a valid component of its diplomas, some of its departments/lecturers might feel "robbed" of their courses, which too often are considered as a sort of private property. Any person with a minimum knowledge of the University world will easily understand this distinction.

THE CONTINENTAL/REGIONAL CONTEXTS AND THE INSTRUMENTS TO TACKLE THESE ISSUES

Once the distinctions have been clearly established, the determination of the continental/regional contexts and instruments to tackle the three issues is quite evident (concerning the instruments, those discussed in chapter 1 of the HAQAA Materials are considered: legal rules, common public activities/programmes, and diplomatic instruments) :

- As far as the issue of the **professional effects of diplomas** is concerned,
 - **The context** is not that of Universities but that of the organization of economic activities. In terms of continental and regional integration, **that of market integration** (or in other terms, that of the creation of an internal market).
 - And, **as instruments are concerned, the production of regional or continental rules is absolutely necessary**. It is unthinkable that one State will waive for nationals of other States (who have got their diplomas in accordance with a different set of rules) the rules it applies to its own nationals. In terms of integration, the only solution is to arrive to some set of common rules.
- Concerning the issue of the **academic effects of diplomas**,
 - **In terms of context**, it becomes much more “inter-University”:
 - Is a University free or not, in the variable degree of autonomy that all of them have, to accept students with a diploma from another fellow University for a higher level programme of studies?
 - And mainly: are Universities willing and motivated to give access to postgraduate studies to graduates from other Universities? Has this willingness not existed in the past and everywhere in many cases?
 - **In terms of instruments**,
 - **Are there rules** limiting explicitly the freedom/autonomy of Universities to accept graduates of other Universities for higher level programmes of studies? If this is the case, shouldn't they be removed or modified / harmonized?
 - Can the interest (of students and Universities) in academic movement be incentivized by adequate **continental and regional programmes of support and diplomatic instruments favouring dialogue and collaboration**?
- Concerning the issue of the **academic effects of the components of diplomas** (credits / disciplines),
 - **In terms of context**, the issue is not so much “inter- University” but “inner- University”. Indeed, it is very difficult to imagine that a Department is unable to “recognize” the courses accomplished in other Universities (or even other Faculties or Schools in the same University). The problem boils down to the willingness of Departments and lecturers to do it.
 - **In terms of instruments**, the situation is quite similar to that concerning diplomas:
 - **Are there rules** limiting explicitly the freedom/autonomy of Universities and Departments to “recognize” the courses accomplished in other

Universities? If this is the case, shouldn't they be removed or modified / harmonized?

- Can the interest (of students and Universities) in academic movement be incentivized by **adequate continental and regional programmes of support and diplomatic instruments favouring dialogue and collaboration?**

THE EXAMPLE OF THE EUROPEAN UNION (and the EHEA/Bologna Process)

The European process of integration in HE has been so often taken as an example (and misunderstood) that it remains worth being considered in both its tracks, interrelated but very different: EU action and the Bologna process. The following table summarizes its main features:

	<i>EU action</i>	<i>Bologna Process</i>
<i>Professional effects of diplomas</i>	Partial harmonization by the enactment of legal rules	Nothing
<i>Academic effects of diplomas</i>	Not a priority	No public activities. Unilateral action Mainly left to Universities' autonomy. Government agencies and services may provide assistance.
<i>Academic effects of components of diplomas (credits/disciplines)</i>	Common public activities (Erasmus programme and others) Diplomatic instruments (promotion of ECTS and agreements between Universities)	No public activities Diplomatic instruments involving governments Mainly left to Uni. Autonomy and to bi-plurilateral agreements between Universities, taking advantage of EU action

The end result of this interacting double track is very complex and defies any summary.² However, for the purposes of this Brief, the following outline is necessary.

² The second and third part of the HAQAA Materials offer a number of elements of analysis and discussion of this complex situation, including in particular the two sub-chapters 8 written by prof. Howard Davies.

THE BOLOGNA PROCESS

The Bologna process does not include legal rules and intends to remain circumscribed to the domains in which Ministers of HE are competent. The process has been very successful³ in launching a series of legally independent but politically more or less convergent reforms of the different national HE systems.⁴ The success has concerned mainly the “logistics” (unfortunately not so much the content)⁵ of HE: (i) the sequence Bachelor/Master/Doctorate; (ii) the division of the academic year in two four-months “semesters”; and (iii) the adoption of credits (the ECTS) as units of account for the design of curricula. **But, as it does not include rules in its framework, it has not tackled the issue of the recognition of the professional effects of diplomas nor created any obligation (for Universities) or granted any right (to the students) concerning academic recognition.** It has not set up, either, any common public activity (exchange or mobility programs). However, as it has promoted and welcomed the mobility of students, the use of this “diplomatic instrument” by ministers, embedded in ministerial declarations and follow-up groups, has been effective in promoting agreements between Universities for this purpose.

Mobility has also been favoured because the countries participating in the Bologna process are also parties to the 1997 – 1999 CoE⁶ / UNESCO Lisbon Convention on Recognition (LRC) - <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=165> -, which includes some commitments of best endeavours and transparency. The Convention does not include an enforcement method, and application and enforcement are left to national authorities and jurisdictions. However, it intends to shift the burden of proof if a student who faces the rejection of his/her application for academic recognition dares to initiate a lengthy, costly and uncertain appeal /review procedure: it would pertain to the University that has rejected the application to prove that there are sufficient grounds to justify it.

In real practice, a mechanism envisaged by the LRC has had, at least in some countries, a greater effect in favouring mobility than its provisions of substance: the setting of National Information Centres, which have ended up creating a European Network (ENIC / NARIC): <https://www.enic-naric.net/page-about-ENIC-NARIC-Networks>. As ENIC/NARIC website explains (emphasis added)

At a minimum and according to Article IX.2(2) of the LRC, a National information centre should:

- *facilitate access to authoritative and accurate information on the higher education system and qualifications of the country in which it is located;*

³ The term “successful” refers to the effectiveness of the reform process. Of course, its “goodness” (whether it has led to the improvement of the different national HE systems in their different dimensions) remains debatable and the final judgement depends largely on the observer’s political stand.

⁴ “More or less” convergent because, in some cases, the application of the reforms promoted by Bologna has been very divergent. For example, one of its more known features outside Europe (the three-years Bachelor/ two-years Master/Doctorate sequence) has been interpreted and applied differently. In Spain, it was decided from the very beginning that the Bachelor degree – “grado” in Spanish- would take four academic years. And in France, the sequence has been fitted within the old formula that already envisaged as normal a four-year programme of studies leading to a “licence” – Bachelor- at the end of the third year and a “maîtrise” – Master- at the end of the fourth. The only change has been that of adding a second academic year to the acquisition of the “new Bologna maîtrise/master”.

This sequence, in some cases, has created rigidities instead of favouring flexibility. Before Bologna, for example, in many countries, the first University degree was sufficient to admit students to Doctorates. After Bologna, most national legislations request the passage for a Master degree before accessing a Doctorate.

⁵ In the author’s opinion, the Bologna process rightly emphasized, concerning content, that a) horizontal/transversal/inter- and transdisciplinary abilities and skills and b) general learning outcomes linked to them are much more important than specific competences in the traditional disciplines that compose a curriculum. However, experience proves that most countries and Universities pay only lip service to this vision and curricula continue to be conceived as an aggregation of traditional disciplines (counted as credits).

⁶ The Council of Europe (CoE) is an international organization completely distinct from the European Union. It predates the signature and entry into force of the European Economic Community Treaty in 1956 -57.

- *facilitate access to information on the higher education systems and qualifications of the other Parties;*
- ***give advice or information on recognition matters and assessment of qualifications, in accordance with national laws and regulations.***

In some countries, the information provided to specific Universities by the respective NARIC does facilitate admission of students with diplomas from other countries.

THE EU ACTION

EU action has made use of all the available instruments (legal rules, public common activities and diplomatic instruments). But the scope of its action has been very limited as the EU competence in the area of education is also very limited.

It has been able to tackle the issue of the recognition of the professional effects of diplomas because the EU (formerly the European Community) has extensive and deep competences for the building of an internal common market that includes services and movement of workers. On that legal basis, it undertook, quite early, a painful, difficult and time-consuming work of legal harmonization that has led to a very “partial” harmonization of national rules.

- “Partial” because it provides full recognition only for a very small number of professions (medical, some paramedical and architecture). For them, EU rules introduce a harmonisation of course duration, of (in some cases) the quantitative relation of theory to clinical practice, as well as of curricula. However, the harmonisation of curricula is prescribed only at a certain level of abstraction. At syllabus level the detail is determined by perceptions of national need.
- For the rest of the regulated professions requesting a University diploma, only some low-key obligations are imposed, which do not avoid passing through national procedures to have the professional effects of diplomas recognized (or not).⁷

On academic recognition (an issue on which the EU has no competence to legislate), no legal obligation for Universities and no right for students have been created. However, the EU has been very successful in its use of Common Public Activities and Diplomatic Instruments. The launch of the Erasmus programme and the promotion of ECTS has favoured the multiplication of agreements between Universities and the introduction of much more open criteria when individual Universities assess the diplomas and credits obtained in other fellow Universities in order to decide whether they “validate” / convalidate” / recognize them as “equivalent” in order to accept students.

AND THE FORGOTTEN (MAIN?) INSTRUMENT: NATIONAL TREATMENT, A LEGAL PRINCIPLE AND A POLITICAL GHOST IN EU INTEGRATION

The 1956-57 Treaty of Rome establishing the European Economic Community contained an obligation for Member States to grant “National Treatment”. The wording of that article 7 has survived all the reforms of the Treaty and has now become article 18 of the Treaty on the

⁷ Howard Davies’ chapter in the HAQAA Materials offers a very detailed analysis of the content and evolution of this legislative process.

Functioning of the European Union (TFEU): *“Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited”.*

The content and effects of such a provision are not easy to ascertain.⁸ For the purposes of this Brief, an example suffices. The provision prohibits the first condition that had to be fulfilled by the author when he entered as professor a Spanish public University (“to be Spanish”); but it certainly does not prohibit the establishment of “technical” conditions/regulations to be satisfied in order to access the profession (for example, “having a PhD”). As this condition must be satisfied in conformity with national legislations, the actual fact was that, even after Spain ratified the EEC Treaty, most nationals of other Member States remained unable to access the profession because they did not comply with this requirement (even if they had PhDs awarded in conformity with other Member States legislations).

But the European Court of Justice (ECJ, now Court of Justice of the European Union – CJEU-) interpreted, very early, that this National Treatment obligation did not cover only “*de iure*” but also “*de facto*” discrimination (the enactment of regulations that in their letter are non-discriminatory, but which in actual fact – and in their purpose- prohibit the access of nationals from other Member States). For example (this a case judged by the ECJ: Judgement of 26th February 1991 in case C-154/89:

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61989CJ0154>), if one country creates a regulated profession that does not exist in any other country (for example, Touristic Guide) and requests for its exercise an academic diploma that only exists in the country (the diploma of Touristic Guide), it can be interpreted that this regulation is not “technical” but a disguised means of imposing a discrimination by reason of nationality with the effect of reserving to nationals the access to that profession, and, therefore, contrary to National Treatment and prohibited by the Treaty. But when you enter “*de facto*” discrimination you begin to surf very troubled waters ... Where do you draw the borderline between fully justified divergences in regulation and “*de facto*” discriminations for reason of nationality?

The difficulties in defining the limits of National Treatment and the prohibition of “*de facto*” discrimination have helped to greatly enhance the “integratory power” of the principle, which is transformed into a sort of legal/political ghost of very unprecise profile for everyone, which creates doubts and fears (on those who are anti-integrationist) and hopes and arguments (on those who are integrationists). As a result of this process, it could be argued that the “ghostly” interpretation of the National Treatment rule has probably been, in practice, the main engine of integration in the area of education within the European Union. A HAQAA Policy Brief on the extremely important issue of National Treatment in HE will be published in the next few months.

⁸ In the GATT/World Trade Organization context, the National Treatment (NT) provisions (mainly article III of GATT but also article XVII of GATS, the WTO agreement on services) have generated thousands of pages of case law and academic literature in order to ascertain their content and effects. The Court of Justice of the European Union combined both notions of NT (EU’s and GATS’s) in the analysis of a case involving at the same time intra-EU and extra-EU treatment: The European Commission vs. Hungary case (judgement of 6th of October 2020: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62018CJ0066>)

THE BOTTOM LINE: TO FAVOR OPENNESS IN INDIVIDUAL UNIVERSITIES AND BI- AND PLURILATERAL AGREEMENTS BETWEEN THEM

As we have just discussed, the issue of **the recognition of professional effects of HE diplomas is, mainly, an issue covered by the rules on the organization of economic activities** and linked to the more or less free circulation of services, professionals and qualified workers; so, falling outside the remit of Universities.

If we concentrate in the issue of the recognition of the academic effects of both diplomas (to enter higher levels of study) and components of diplomas (to move among different Universities at the same level of studies – mainly undergraduate), we come to a conclusion that is quite obvious but that has remained hidden by misunderstandings, too often provoked by confuse explanations and analysis: the main actors of the process leading to (more or less) recognition (and mobility insofar as previous academic recognition is required) are the Universities themselves, either acting unilaterally or by signing bi- or plurilateral agreements between them. It couldn't be otherwise: If Universities were obliged to recognize diplomas and credits awarded by other Universities, the best Universities would be flooded by last-year/semester students moving in (or intending to move in) from other Universities and who want to simply finalize their studies in a more prestigious University (at the expense of the students who have followed their entire programme of studies in such a University). **Common public activities and diplomatic instruments are effective insofar as they incentivize Universities to open and to collaborate with other Universities.** It must never be forgotten that, as Dr. Howard Davies puts it, beyond Erasmus, credit mobility is sustained by consensual good practice. This comprises mechanisms of quality assurance exercised to the agreed European standard (ESG), the reciprocity implied in exchange programmes, and the widespread acknowledgement that cross-border mobility benefits both individual students and institutions.

To close this section, it must be emphasized that this is how the 1985 Adonnino Report (an EU – EEC at the time- “Diplomatic Instrument”) launched the ECTS process, which later was so successfully made a condition of eligibility for the participation in the Erasmus programme (a “Public Common Activity”); therefore, without any “Harmonization Rules”. So, it is convenient to finalize this section with the relevant Report quotation (emphasis added): *(The Report recommends to) examine the possibility of introducing a European system of academic credits transferable throughout the Community (European Academic Credit Transfer System). This system would be implemented by means of bilateral agreements or on a voluntary basis by universities and higher education establishments which, by arrangement with one another, would determine the procedures for academic recognition of such credits.*

In other terms and running the risk of using analogies: What the European Economic Community and its Member States envisaged in 1985, by introducing the ECTS, and has been so successfully achieved, was not a harmonization of the content of the curricula that would lead to an automatic recognition of diplomas but a **design of the boxes within the “containers” (the different curricula) that, as containers do in maritime transport, facilitate transport and comparability of the content (disciplines/credits) between interested parties.**

HOW TO FRAME THE DISCUSSION ON RECOGNITION IN AFRICA

The purpose of this Brief (and of HAQAA-3 as a whole) is not that of prescribing lines of action or adding to the too many (bad and ineffective) recipes Africa has received from institutions whose headquarters and decision-making bodies are located in other regions of the world. However, some lines of reflection can be presented.

ON THE RECOGNITION OF THE PROFESSIONAL EFFECTS OF HE DIPLOMAS

There seems to be a very insufficient awareness that the African context for the discussion on the recognition of the professional effects of HE diplomas has radically changed in the last decade. **Before 2018, the only legal and political framework for such a discussion, essentially of an economic nature as concerns its effects, was that of the Regional Economic Communities in the different African Regions. In 2018, the African Continental Free Trade Agreement (AfCFTA) (** <https://au.int/en/treaties/agreement-establishing-african-continental-free-trade-area> **)** was signed. It entered into force in 2019, and its effective application, delayed because of the COVID pandemic, commenced on the 1st of January 2021. AfCFTA has given a new life to a prior specific protocol on movement of persons (https://au.int/sites/default/files/treaties/36403-treaty-protocol-on-free-movement-of-persons-in-africa_e.pdf) **that covers the issue of recognition of the professional effects of HE diplomas.**

Therefore, it seems quite unquestionable that, at the continental African level, this issue can be more properly addressed (and probably with a stronger political will) in the AfCFTA framework than in any other one. It is in the AfCFTA framework that the efforts developed at the level of the Regional Economic Communities can be most aptly shared and compared.

ON THE RECOGNITION OF THE ACADEMIC EFFECTS OF HE DIPLOMAS AND COMPONENTS OF DIPLOMAS (CREDITS / DISCIPLINES)

The analysis summarized in the Brief can only lead to one conclusion concerning African integration. The main actors in this area are African Universities themselves. On one side, most of them have the capacity to recognize the academic effects of diplomas and certificates on components of diplomas issued by other Universities; and, on the other, for the reasons just explained, it appears impossible to impose on them an obligation of automatic recognition (or to give to students the right to have their diplomas or credits/disciplines automatically recognized).

Universities must be,

- **First, empowered:** as we know, “empowerment” means, most often, acquiring awareness of one’s own rights and willingness and courage to exercise them.
- **And, second, they must be helped.** It would certainly help them, drawing some lessons from the EU experience:

- **Setting up a programme that favours the mobility of students (a sort of African Erasmus), and**
- **Producing a mechanism (the ECTS in Europe and a similar or alternative ACTS) that, without intending any harmonization of the content of academic programmes, favours the comparability of curricula and the definition of equivalences between credits and disciplines.**

AND NATIONAL TREATMENT?

Of course, Africa, and the African Union, lack the existence of an obligation imposed to each Member State to grant National Treatment to nationals of all the other, clear in its wording but rather confusing in its interpretation and application, a characteristic that in the EU gives to it, as previously explained, a sort of “ghostly” political contour very pro-integrationist as it creates doubts and fears (on those who are anti-integrationist) and hopes and arguments (on those who are integrationists).

Will African continental integration be able, one day, to proclaim and give effective application to this “ghost”? Will it find another principle that might have the same integrationist effects?

REVERSING THE APPROACH TO RECOGNITION?

Finally, as it must be repeated that Briefs in this Series are not meant to be prescriptive but, on the contrary, intend to promote African reflection on Higher Education from an African perspective, a final comment can be adequate to finalize this Brief on Recognition. Quite often, in the literature studied and debated in the African context, Recognition is presented as a sort of “asset of integration”. Should it not be adequate to somehow reverse the approach and consider Recognition as an obstacle to be overcome in order to achieve “real Integration in practice”, i.e. mobility of students and graduates, and collaboration between Universities? Would this “reversed approach” not be a better orientation for the two main actors of any Integration process in Higher Education: Governments (and regional and continental political bodies), when setting mobility programmes, and Universities, by empowering them to use their own capacities?