

Research for CULT Committee – Recognition of qualifications for educational and professional purposes: the impact of Brexit

KEY FINDINGS

The United Kingdom (UK) will leave the European Union next 29 March 2019. The potential impact of the UK's withdrawal from the European Union on the recognition of qualifications depends on the nature of the qualifications as different regulatory regimes apply to academic as against professional qualifications.

In the case of academic qualifications, this issue falls within national competence, although supporting policies have been implemented at European level. Brexit should not have substantial consequences since those policies are intergovernmental (e.g. Bologna Process), implemented on a voluntary basis (e.g. European

Qualifications Framework, Europass) or open to third countries (e.g. Erasmus+).

By contrast, the question of professional qualifications is closely related to the single market and to the free movement of workers, services and establishment. Hence, a number of European directives govern the field of regulated professions. If the UK becomes a third country from 30 March 2019 or at the end of the transition period provided for in the "[Draft Withdrawal Agreement](#)", this legislation will no longer apply either to EU citizens seeking recognition of their qualifications in the UK or to UK citizens seeking recognition of their qualifications in the European Union.

1. School education and higher education

1.1. Current situation

In accordance with the principle of subsidiarity, education policies are decided at national level. The EU only has a supporting competence in education. This support is mainly based on the "open method of coordination" through the voluntary cooperation of the Member States: currently, it



consists of three strands: i) setting up of common monitoring tools¹, ii) exchange of good practices, iii) cooperation through Erasmus+.

The responsibility for the content of teaching and for the organisation of education systems lies solely with the Member States (Article 165 TFEU). Depending on the internal organisation of each Member State, the content of teaching may also be decided upon at regional level or, in the case of higher education, even at institutional level. Given this, there is currently no EU law on the recognition of study periods abroad, school leaving certificates or higher education diplomas. Member States are free to apply their own rules, including whether or not to recognise academic qualifications obtained elsewhere. Similarly, higher education institutions are free to set up mechanisms for mutual recognition through bilateral agreements.

1.1.1. School education

In school education, the recognition of study periods abroad and of certificates is not as advanced as in higher education. Currently, there is no EU-wide coordination with regard to these periods and certificates and no equivalent to the Bologna Process.

School periods abroad

The recognition of study periods abroad in school education is particularly problematic since the study period does not lead to the attainment of a certificate that corresponds to a certain level in the European Qualifications Framework (EQF)². This question arises when a student spends a school year in another Member State on a pupil exchange or simply moves from one Member State to another during school education. At this stage, the responsibility for recognition of these study periods is frequently in the hands of national ministries of education or individual schools.

School leaving certificates

EU countries often have mechanisms in place to allow for quasi-automatic recognition of school leaving certificates: e.g. multilateral agreements between the Benelux countries and the Nordic countries or automatic recognition in Poland of EU, EEA and OECD countries' school certificates³. However, as in the case of schooling periods abroad, recognition often lies with national ministries of education, National Academic Recognition Information Centres in the EU (www.enic-naric.net) or higher education institutions for the purposes of admission. In the latter case, admission based on a foreign school-leaving certificate may include additional requirements, such as specific university admission exams, which might be a *de facto* barrier for applicants coming from other EU Member States⁴.

1.1.2. Higher education

Institutional processes and objectives

Currently, although there is no automatic EU-wide recognition of study periods abroad and of diplomas in higher education⁵, the Lisbon Recognition Convention (LRC)⁶ and the "Bologna Process" aim at increasing comparability and mutual recognition.

¹ European Commission, [Education and training monitor](#)

² [Council recommendation of 22 May 2017 on the European Qualifications Framework for lifelong learning and repealing the recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning](#)

³ Ministry of National Education, [Recognition of foreign school certificates and diplomas in Poland](#)

⁴ European Parliament, Policy Department B, [Higher education entrance qualifications and exams in Europe: a comparison](#), 15 May 2014, p. 82

⁵ European Parliament, factsheet [The mutual recognition of diplomas](#)

⁶ Council of Europe, [Convention on the Recognition of Qualifications concerning Higher Education in the European Region](#), 11 April 1997

The LRC deals with the recognition of higher education qualifications in Europe. The Convention is under the responsibility of the Council of Europe and of UNESCO and has been in force since 1997. All current EU Member States, with the exception of Greece, have signed it. The convention's basic principle is that qualifications must be recognised, unless the institution dealing with the recognition proves that there are substantial differences between the foreign qualification to be recognised and its domestic correspondent.

The LRC underpins the "Bologna process", which was initiated in 1998 and brings together 48 European countries, including most Council of Europe Member States and all EU Member States, through a series intergovernmental meetings and declarations aimed at increasing cooperation in higher education⁷. Its ambition is to create a "European Higher Education Area", particularly through the recognition of qualifications and study periods abroad.

Existing tools

A range of instruments is available at European level to allow for the recognition of periods of study and diplomas obtained abroad and, more broadly, to foster student mobility. However, those instruments are not in any way restricted to EU Member States.

- ✓ The most widely known mechanism for the recognition of qualifications and the main achievement of the Bologna Process is the "European Credit Transfer and Accumulation System (ECTS)". This system facilitates the recognition of study periods abroad in higher education. The ECTS credits express "the volume of learning based on the defined learning outcomes and their associated workload"⁸. They act as "currency" that allows comparison between learning periods in a foreign university and the home institution. Usually, higher education institutions themselves deal with the recognition of the various study periods. In the case of Erasmus+, the home institution and the host institution must have an inter-institutional agreement. After the study period abroad, the home institution must recognise the credits (using ECTS credits) and count them towards the degree, without any further requirements.
- ✓ The LRC also established the network of National Academic Recognition Information Centres (NARIC) which facilitates the recognition of academic qualifications. While some NARIC centres make binding decisions on recognition cases, most offer advice on international education systems and qualifications.
- ✓ In order to make academic qualifications and professional experience more understandable across Europe, the European Commission has created the "Europass". This tool consists of templates with a common logo for five documents: Curriculum Vitae, Europass Mobility, Language Passport, Diploma Supplement and Certificate Supplement⁹.

Tools such as the ECTS points and Europass help to facilitate the recognition process. However, the responsibility for recognition rests firmly with each individual Member State or with each higher education institution. This recognition may come with a fee and can take between several weeks and several months to complete. In addition, the outcome may not be full recognition¹⁰.

1.2. Impact of Brexit

It is important to note that, after the date of withdrawal, the UK will no longer be able to take part in the "open method of coordination" process mentioned above, as it is restricted to EU Member States. This applies to all EU-driven 'soft law' initiatives.

⁷ Prague (2001), Berlin (2003), Bergen (2005), London (2007), Leuven (2009), Budapest (2010), Vienne (2010), Bucarest (2012), Erevan (2015), Paris (2018)

⁸ European Commission, [ECTS key features](#)

⁹ CEDEFOP, [Connect with Europass](#)

¹⁰ "Your Europe", [Recognition of academic diploma](#)

1.2.1. Proposal for a Council Recommendation on “promoting automatic mutual recognition of higher education and upper secondary education diplomas and the outcomes of learning periods abroad”

Brexit will have no impact on the recognition of school periods abroad and the recognition of school leaving certificates since there is no EU-wide coordination in this field. However, careful consideration should be given to the potential consequences of the upcoming Council Recommendation governing this.

In May 2018, in the wake of its “Strengthening European Identity through Education and Culture” Communication ([COM\(2017\)0673](#)), the European Commission issued a proposal for a Council Recommendation on “promoting automatic mutual recognition of higher education and upper secondary education diplomas and the outcomes of learning periods abroad” ([COM 2018/0270](#)). The proposal states that the Member States should “put in place the steps necessary to achieve, by 2025, automatic recognition of higher education and upper secondary qualifications, as well as recognition of the outcomes of learning periods”.

Given that the text should lead to a Council Recommendation, it would be relevant for all EU Member States even though it is not a binding instrument.

Should the UK become a member of EFTA and party to the EEA after exit day, it could ultimately incorporate this recommendation into its domestic law. Although the act is not marked as “Text with EEA relevance”, EEA members would be free to include it in “Protocol 31 on cooperation in specific fields outside the four freedoms” of the EEA agreement¹¹. For instance, Protocol 31 includes the “Council recommendation of 22 May 2017 on the European Qualifications Framework for lifelong learning”, which is not a priori a “text with EEA relevance”.

Should the UK become a third country, it would be free to incorporate this recommendation in its domestic law on a voluntary basis, as illustrated by the case of other third countries. For instance, article 9 of the “Decision on the Implementation of Turkish Qualifications Framework” makes clear reference to Council Recommendation 2006/962/EC on “Key competences for lifelong learning”¹².

At this stage, it is not yet clear which shape the initiative is going to take and whether the EU and the EEA member States will implement the recommendation, since a recommendation is not binding.

1.2.2. Other ongoing processes

Given that the Bologna Process, as well as tools such as ECTS and EQF, are not limited to EU Member States, Brexit is not going to have any foreseeable impact on the recognition of diplomas and study periods abroad. Participation in the Bologna Process and use of the above-mentioned tools will remain open to the UK after the withdrawal from the EU.

However, should those instruments be changed in any way, the UK will not have a say on these changes, as they are mainly based on EU legislation: e.g., several regulations on Erasmus, [Council Recommendation 2017/C 189/03](#) on EQF, [Decision \(EU\) 2018/646](#) of the European Parliament and of the Council on Europass. The UK will lose influence over those non-binding tools insofar as they are led by the EU.

¹¹ *Agreement on the European Economic Area, [Protocol 31 on cooperation in specific fields outside the four freedoms](#), article 4, “Education, training, youth and sport”*

¹² *Republic of Turkey, [Decision 2015/8213 on the Implementation of Turkish Qualifications Framework](#), 19 November 2015, article 9,*

1.2.3. Erasmus+

In the EU context, study periods abroad are mainly supported through the Erasmus+ programme¹³. Yet, it is not clear if and how the UK will participate in the programme in the future, in particular from 2021 onwards.

From now until the end of the current programme

No change will happen concerning the programme Erasmus+ until the UK's withdrawal from the EU. On 21 April 2017, the UK Government confirmed that EU students would continue to benefit from financial support for the 2018-2019 academic year¹⁴. On 14 November 2018, the [Draft Withdrawal Agreement](#) stated that "the Union programmes and activities committed under the multiannual financial framework for the years 2014-2020 ('MFF 2014-2020') or previous financial perspectives shall be implemented in 2019 and 2020 with regard to the United Kingdom on the basis of the applicable Union law"¹⁵. In other words, assuming the withdrawal agreement is passed, the UK will remain inside the Erasmus+ programme - without decision-making powers - until the end of the transition period, which ends on 31 December 2020¹⁶.

Beyond the current programme

Beyond the official date of withdrawal or the end of the transition period if the withdrawal agreement is approved, there are two possibilities, based on the Commission proposal for a successor programme:

- ✓ Either the UK would fully participate as a "third country associated to the Programme"¹⁷, like the EFTA countries that are party to the EEA Agreement in the current programme. It would have to contribute to the programme costs through an "entry ticket" depending on its GDP and would be entirely excluded from the decision-making process. Under the Commission proposal, the UK could participate either as an EFTA/EEA country (Article 16(1)(a)) or as a third country respecting certain general conditions (Article 16(1)(d));
- ✓ Or the UK would participate as a "third country not associated to the Programme"¹⁸ as provided for in Article 17 of the draft Regulation. Such a degree of association would not in any way replicate the UK's existing participation in the programme.

2. Professional qualifications

2.1. Current situation

In contrast to academic qualifications, professional qualifications in regulated professions¹⁹ are governed by EU-wide rules, mainly [directive 2005/36/EC](#). This directive applies to all regulated professions unless otherwise stated. Separate legislation exists for many other specific professions, including statutory auditors ([directive 2006/43/CE](#)), lawyers ([directives 77/249/EEC](#) and [98/5/EC](#)),

¹³ See European Parliament, Secretariat of the Committee on Culture and Education *Third country participation in the Erasmus+ programme*, 20 November 2017

¹⁴ British Government, [Government confirms funding for EU students for 2018 to 2019](#), press release, 21 April 2017

¹⁵ European Commission, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 14 November 2018, article 137(1)

¹⁶ European Commission, [Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community](#), 14 November 2018, article 126

¹⁷ European Commission, [Proposal for a Regulation of the European Parliament and of the Council establishing 'Erasmus': the Union programme for education, training, youth and sport and repealing Regulation \(EU\) No 1288/2013](#) (COM(2018)0367), 30 May 2018, article 16

¹⁸ European Commission, [Proposal for a Regulation of the European Parliament and of the Council establishing 'Erasmus': the Union programme for education, training, youth and sport and repealing Regulation \(EU\) No 1288/2013](#) (COM(2018)0367), 30 May 2018, article 17

¹⁹ In article 3 of the directive 2005/36/EC, regulated professions are defined as follows: "a professional activity or group of professional activities, access to which, the pursuit of which, or one of the modes of pursuit of which is subject, directly or indirectly, by virtue of legislative, regulatory or administrative provisions to the possession of specific professional qualifications".

professions linked to activities involving toxic products ([directive 74/556/EEC](#)), as well as insurance intermediaries and some other professions in transport.

The reason for the difference between academic and professional qualifications is the direct relevance of the recognition of professional qualifications for the single market and, in particular, the freedom of movement for workers (Article 45 TFEU), freedom of establishment (Article 49 TFEU) and freedom to provide services (Article 56 TFEU).

Directive 2005/36/EC covers EU citizens with qualifications obtained in another EU Member State. Under certain conditions, it also covers qualifications obtained by EU citizens in third countries. The recognition of qualifications of third country nationals, wherever obtained, is not covered by Directive 2005/36/EC. However, it may be covered by some specific instruments, such as [Directive 2003/109/EC](#) concerning the status of third-country nationals who are long-term residents or [Directive 2009/50/EC](#) on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment.

2.1.1. Temporary mobility

If EU citizens exercising a regulated profession want to provide their services in another EU country on a temporary or occasional basis, they may do so freely even if the host country might require from them a prior declaration. However, for professions that have public health and safety implications, the host country can require a prior check of the qualifications, only if this is necessary to avoid serious damage to the health or safety of the service recipients.

2.1.2. Permanent establishment

If EU citizens exercising a regulated profession want to provide their services in another EU country on a permanent basis, directive 2005/36/EC distinguishes three main systems:

Automatic recognition for professions whose minimum training conditions are harmonised at European level

For seven professions, called “sectoral professions”, the directive allows for automatic recognition, based on the idea that the minimum training requirements are harmonised: doctors, dentists, nurses, veterinary surgeons, architects, pharmacists and midwives. In order to work in another Member State, professionals must submit their qualifications to the authority that oversees the profession in that country, which has to recognise them automatically without imposing compensatory measures such as an adaptation period or an aptitude test.

Automatic Recognition based on professional experience

In some sectors, including crafts, commerce or industry (see list of professions in Annex IV of the directive), professionals may gain automatic recognition of professional qualifications in another EU country based only on their professional experience.

General system

The “general system” is applicable for any other regulated profession. For those professions, the host country should recognise the qualifications depending on the level of qualification of the applicant and according his/her experience in that profession. It can also impose compensatory measures such as an adaptation period or an aptitude test²⁰.

²⁰ European Commission, DG Growth, [General System](#)

2.1.3. The European Professional Card

Directive 2005/36/EC (as amended by Directive 2013/55/EU) also facilitates temporary mobility and establishment through the “European Professional Card” (EPC), which allows citizens to obtain recognition of their qualifications through an electronic procedure. Since January 2016, the EPC is available for five professions (general care nurses, physiotherapists, pharmacists, estate agents and mountain guides), but it might be extended by the Commission to other professions in the future.

Since 1997, over 27,000 professional qualifications obtained in the UK have been recognised in the EU. In the same period, the UK has recognised more than 140,000 EU professional qualifications.

2.2. Impact of Brexit

The impact of Brexit on professional qualifications is likely to be much more substantial than in the field of recognition of academic diplomas. Different situations must be distinguished.

2.2.1. Professional qualifications recognised before the official date of the withdrawal or in the process of being recognised at the official date of the withdrawal

Brexit will not affect decisions made on recognition before the withdrawal date (or the end of the transition period assuming the withdrawal agreement is adopted) or ongoing processes of recognition at that moment. The above-mentioned *Draft Withdrawal Agreement* provides:

- ✓ for “the recognition, before the end of the transition period, of professional qualifications, as defined in (...) Directive 2005/36/EC (...) of Union citizens or United Kingdom nationals and their family members by their host State or their State of work shall maintain its effects in the respective State, including the right to pursue the profession under the same conditions as its nationals” (article 27);
- ✓ that “Article 4, Article 4d in respect of recognitions of professional qualifications for establishment purposes, Article 4f and Title III of Directive 2005/36/EC (...) shall apply in respect of the examination by a competent authority of their host State or State of work of any application for the recognition of professional qualifications introduced before the end of the transition period by Union citizens or United Kingdom nationals and in respect of the decision on any such application” (article 28).

The same principles apply to statutory auditors, lawyers and professions linked to activities involving toxic products. Other regulated professions covered by separate legislation are not mentioned in the *Draft Withdrawal Agreement*.

2.2.2. Recognition of professional qualifications beyond the official date of the withdrawal

On 28 June 2018, the UK adopted the [EU \(Withdrawal\) Act](#), also called the “Great Repeal Act”, which will come into force on exit day, in order to repeal the *European Communities Act* of 1972. The Act will transpose directly applicable EU laws into UK law and will preserve the laws adopted by the UK to implement its EU obligations, such as directives²¹. By doing so, the UK will ensure, at least until the end of the transition period, the effect of the above-mentioned directives relating to the recognition of professional qualifications. Recognition of professional qualifications will therefore continue to apply until the end of 2020. Beyond that, it will depend on any future agreement, which in turn will hinge on whether professional standards remain harmonised.

²¹ British Government, Department for exiting the European Union, [Legislating for the United Kingdom's withdrawal from the European Union](#), 30 March 2017, article 2(4) and 2(5)

Beyond the transition period, the British Government will be free to repeal or to adapt provisions derived from EU law. Concerning recognition of professional qualifications, three hypotheses can be envisioned in the future:

UK as member of EFTA and party to the EEA

If the UK becomes a member of EFTA and party to the EEA, it will remain in the single market. In this situation, the EU law relating to the four freedoms of movement, including EU law relating to the recognition of professional qualifications, will still be applicable in the UK²².

However, this scenario is highly unlikely since the UK would have to continue to convert single market law into its domestic law without being involved in the legislative process. In addition, it would have to accept the free movement of persons. This scenario is envisioned neither from the EU side nor from the UK side²³.

UK as a third country

Unless a specific agreement is found before the official date of the withdrawal or the end of the transition period, all primary and secondary EU law will cease to apply in the UK on exit day even if some effects of EU law will remain in force in the UK, at least temporarily (cf. above). In this situation, the UK will become a third country like any other. The EU directives in the field of professional qualifications will no longer apply, either to British citizens having obtained a qualification in another EU Member State or to EU citizens having obtained a qualification in the UK. Member States will thus apply their own rules on the recognition of professional qualifications obtained in third countries.

CETA as a blueprint?

The “Comprehensive Economic and Trade Agreement” (CETA) between the EU and Canada is very often mentioned as a blueprint for the future relationship between the EU and the UK²⁴. In the field of mutual recognition of professional qualifications, this agreement:

- ✓ Only provides a framework; negotiations for recognition will take place between competent authorities and/or professional bodies at a later stage;
- ✓ Only makes some recommendations (annex 11): verification of equivalency, evaluation of substantial differences, compensatory measures etc.

The UK argues, in its July 2018 White Paper on the future UK-EU relationship²⁵, that CETA, while ambitious on the recognition of qualifications in relation to comparable FTAs, is too timid for the future EU-UK partnership. As such, and based on the ‘unique starting point’, the recognition regime should be “broad in scope” and cover “the same range of professions as the Mutual Recognition of Qualifications Directive”. For its part, the Council stated in March 2018 that “the future partnership should include ambitious provisions on movement of natural persons, based on full reciprocity and non-discrimination among Member States, and related areas such as (...) recognition of professional qualifications”²⁶.

²² [Agreement on the European Economic Area](#), 13 December 1993, article 30: “In order to make it easier for persons to take up and pursue activities as workers and self-employed persons, the Contracting Parties shall take the necessary measures, as contained in [Annex VII](#), concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications, and the coordination of the provisions laid down by law, regulation or administrative action in the Contracting Parties concerning the taking up and pursuit of activities by workers and self-employed persons”

²³ Reuters, [May wins vote, parliament rejects staying in European Economic Area](#), 13 June 2018

²⁴ [Comprehensive Economic and Trade Agreement \(CETA\) between Canada, of the one part, and the European Union and its Member States, of the other part](#), 30 October 2016, chapter 11, Mutual recognition of professional qualifications

²⁵ British Government, [The future relationship between the United Kingdom and the European Union](#), July 2018, p. 27

²⁶ European Council, [Guidelines on the framework for the future EU-UK relationship](#), 23 March 2018

It remains to be seen whether the contrasting political imperatives can lead to a possible agreement on this issue, with the UK keen to end the free movement of persons and the EU anxious to avoid the UK cherry-picking the single market freedoms it wishes to embrace.

Further information

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ACKNOWLEDGEMENT

We would like to express our deepest appreciation to all those who helped us in writing this briefing: Jacqueline Breidlid (European Free Trade Association secretariat), Knut Hermansen (Mission of Norway to the European Union), Atanaska Koleva (European Parliament, Directorate-General for Internal Policies of the Union, Secretariat of the Committee on the Internal Market and Consumer Protection), Darren Neville (European Parliament, European Parliament, Directorate-General for Internal Policies of the Union, Secretariat of the Committee on Culture and Education), June O'Keeffe (European Parliament, Directorate-General for Internal Policies of the Union, Legislative Affairs Unit), Fabienne Pondeville (European Parliament, Directorate-General for Internal Policies of the Union, Secretariat of the Committee on Culture and Education), Öncü Tekeş (Mission of Turkey to the European Union), Elina Viilup (European Parliament, Directorate-General for External Policies of the Union, Unit for Europe: Enlargement and European Economic Area).

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This document is available on the Internet at: www.europarl.europa.eu/supporting-analyses

IP/B/CULT/IC/2018-001

Print ISBN 978-92-846-3497-2 | doi:10.2861/245624 | QA-06-18-334-EN-C

PDF ISBN 978-92-846-3495-8 | doi:10.2861/886772 | QA-06-18-334-EN-N