



Bosna i Hercegovina
Ministarstvo za civilne poslove i komunikacije



COUNCIL
OF EUROPE
CONSEIL
DE L'EUROPE

5 May 2003

Subject: Draft State-Level Framework Law on Higher Education in Bosnia and Herzegovina

Dear Ministers and members of the academic community,

It is our pleasure to forward to you for your consideration and comments the draft state-level framework law for higher education.

The draft law attempts to bring the higher education system in Bosnia and Herzegovina in line with European standards, including the principles of the Bologna Declaration and the Lisbon Recognition Convention. Indeed, as outlined in the Education Reform Agenda, any successful reforms in higher education will be contingent upon the early adoption and implementation of new legislation, based upon best European practice. Highlights of the draft legislation include provisions for establishing quality control mechanisms, creating a single legal status for universities and outlining transparent rights and obligations for students and professors. A Centre for the Recognition of Academic Qualifications of BiH will also be created under this draft law, in line with the upcoming ratification of the Lisbon Recognition Convention. It is expected that this Centre will be of particular importance in BiH: on the one hand, it will encourage Bosnian students abroad to return to BiH with recognised diplomas and on the other, enhance Bosnian students' academic and employment prospects outside of BiH.

The draft law was developed by a drafting committee composed of both Bosnian and international experts and supported by the Council of Europe. The Ministry of Civil Affairs intends to submit the final version of the law to the Council of Ministers this summer. Your comments are therefore critical during this period of consultation and will be carefully considered.

We would therefore be very grateful if you would send your comments by **25 May 2003** at the very latest. Your comments can be sent in English or a local language to an E-mail address specifically set up for this purpose: visoko_obrazovanje@legislator.com

Or, if you prefer, you may send comments to the following address:

The Council of Europe Office in Sarajevo
Fra Grge Martica 2/III
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We look forward to receiving your comments and thank you for your efforts in giving the best possible opportunities to the young people of Bosnia and Herzegovina.

Yours sincerely,

Professor Safet Halilović
Minister of Civil Affairs

Dr Sonja Moser-Starrach
Special Representative of the Secretary General

DRAFT 5 MAY 2003

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Working Document

Pursuant to Article IV 4.a) and II 2.3.1) of the Constitution of Bosnia and Herzegovina, during the session of the House of Representatives held on _____2003 and the House of Peoples held on _____2003, the Parliamentary Assembly of Bosnia and Herzegovina adopted a:

DRAFT FRAMEWORK LAW ON HIGHER EDUCATION IN BOSNIA AND HERZEGOVINA

Taking into account the relevant provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, the Council of Europe Committee of Ministers Recommendations on the Recognition and Quality Assessment of Private Institutions of Higher Education, on Access to Higher Education and on the Research Mission of Universities; and other relevant principles reflected in internationally recognised legal instruments to which Bosnia and Herzegovina is a State party;

Taking into account the Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region and the binding commitment made by Bosnia and Herzegovina upon admission to the Council of Europe to ratify the Convention;

Taking into account the binding commitment made by Bosnia and Herzegovina to implement reform in the area of higher education within the European Higher Education Area;

Recalling the Joint Declaration of the European Ministers of Education convened in Bologna on the 19th of June 1999 on the European Higher Education Area.

I – GENERAL PROVISIONS

Article 1.

This Law regulates the fundamental principles and standards of provision of higher education in Bosnia and Herzegovina to enable implementation of higher education reform by the competent authorities.

It regulates the following issues, which Entity authorities and the authorities of the Brcko District are obliged to apply and uphold in formulating laws and regulations dealing with higher education :

- I - General
 - 1) Definitions
 - 2) Higher education : objects and meaning
- II - Principles
 - 1) Access
 - 2) Higher Education Institutions
 - 3) Institutional autonomy and legal personality
 - 4) Academic freedom
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- III - Responsibilities of the Authorities
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- IV - Advisory Bodies in Higher Education
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 - 3) Higher Education Funding Bodies
- V - Quality Assurance
 - 1) Accreditation
 - 2) Quality Audit and Assessment
 - 3) Degrees and Diplomas
- VI - Concluding Provisions

I - GENERAL

1. Definitions

Article 2.

In this Law the following terms shall have the meanings indicated:

“Academic staff” includes persons of any rank or title who teach or are engaged in scientific, professional or artistic work at a licensed higher education institution.

“Accreditation” shall mean a formal recognition by or on behalf of the State that a higher education institution and its programmes fulfils generally accepted quality standards and that its qualifications confer on holders (in accordance with applicable law) a number of rights, e.g. access to a further stage of education, to specific occupations, to the use of a title.

“CRAQ” means the Centre for Recognition of Academic Qualifications in BiH, the national information centre established by the Ministry under the provisions of the aforesaid Convention.

“Diploma” and “Diploma Supplement” shall have the meanings assigned to them by the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165, 1997) as set out in Annex 1 attached to the present Law.

“Equivalent” in the context of academic titles and qualifications means generally accepted by the academic community as being of the same or similar status.

"European Higher Education Area" shall have the meaning assigned to it in the Declaration of the European Ministers of Higher Education at Bologna (1999) as set out in Annex 1 attached to the present Law, and the subsequent development of the concept.

"Full-time-equivalent students" means that number calculated by adding together the number of credits for which students are registered at the material time divided by the number of credits corresponding to a full-time student load according to regulations issued by the Ministries of Education.

"Higher education" shall mean post-secondary education leading to an internationally recognised degree and also other education of equivalent level and content.

"Higher Education Co-ordination Board" shall mean the body of that name established by agreement between the Ministry and the Ministries of Education and having the responsibilities set out in this Law, and its successors in title.

"Higher Education Funding Body" shall mean the body of that name established by a Ministry of Education and having the responsibilities set out in this Law, and its successors in title.

"Higher education institution" shall mean a university or college or other body authorised under this Law to provide education services at the level of higher education.

"Licensing" shall mean the act of awarding the status of a licensed higher education institution to an institution which meets generally accepted standards for obtaining higher education and "Licensed" means licensed according to the provisions of this Law.

"Ministries of Education" means bodies of government responsible for organising higher education in Entities and the Brcko District of Bosnia and Herzegovina.

"Ministry" shall mean the Ministry designated as responsible for higher education in Bosnia and Herzegovina at the level of the state in accordance with applicable law.

"Private higher education institution" shall mean a higher education institution established by any legal or natural person other than the Ministries of Education, pursuant to the provisions of this Law and which requires to be licensed.

"Public higher education institution" shall mean a higher education institution to be established or already established by the Ministries of Education, pursuant to the provisions of this Law, and which is automatically considered to be a licensed higher education institution.

"Quality assessment" shall mean a range of explicit evaluation procedures concerning the quality of the programmes offered by higher education institutions.

"Quality audit" shall mean a formal evaluation of the quality processes and procedures of a higher education institution.

"Student" means a person who studies, either full-time or part-time, at a licensed higher education institution, other than a member of staff of the institution enrolled for a course or programme at that institution.

"Study" and "studying" mean the process by which a student undertakes a programme planned, organised and provided by a licensed higher education institution, upon

completion of which the student acquires a title, a corresponding academic title or academic degree.

2. Higher Education: Objects and Meaning

Article 3.

The objects of higher education are:

(a) To establish, develop, protect and transmit knowledge through teaching and scientific work and research; and

(b) To provide opportunities for all inhabitants of Bosnia and Herzegovina with the ability to benefit from such education, throughout their lives.

For the purposes of this Law, the term "higher education" includes:

(a) Education leading to:

(i) a degree of the first cycle (the degree of Bachelor or equivalent) taken after the equivalent of at least three years of full-time study after obtaining the secondary school leaving certificate;

(ii) a degree of the second cycle (the degree of Master or equivalent) taken after obtaining the degree of Bachelor; and

(iii) a degree of Doctor or equivalent.

with all such qualifications being hereinafter referred to as 'higher education qualifications'; and

(b) Education of equivalent level and content to that leading to a higher education qualification.

The secondary school-leaving certificate may be substituted by a national or foreign qualification or national or foreign diploma assessed as equivalent by the CRAQ. Where a foreign school-leaving certificate is presented for assessment, recognition shall normally only be granted to a certificate showing completion of a minimum of twelve years' schooling and entitling the holder to apply to a university or to undertake a university entrance examination in the foreign country concerned.

The degree of Bachelor may be substituted by a national or foreign qualification or diploma or experience assessed as equivalent by the CRAQ. Where a certificate from an institution of higher learning is presented for assessment, the institution must be one recognised by a national government or accredited by a national or nationally-recognised agency.

The Ministry in consultation with the Ministries of Education shall prescribe the duration of the degree of the first cycle and transitional provisions for the period 2004-2010.

II - PRINCIPLES

1. Access to higher education

Article 4.

Higher education carried out by licensed higher education institutions in Bosnia and Herzegovina shall not be restricted, directly or indirectly, on any actual or presumed ground such as sex, race, sexual orientation, physical, or other impairment, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status.

There shall be no upper age limit on enrolling for or being awarded a higher education qualification in Bosnia and Herzegovina.

Higher education may be undertaken full-time, part-time, by distance learning and in any combination of these modes of study as provided in the statute of the institution which awards a higher education qualification.

Nothing in this Law or the provisions of any other state or entity-level law, shall restrict the freedom of licensed higher education institutions:

- (a) To innovate in the provision of higher education within their licences;
and
- (b) To offer courses of any educational level for the acquisition of skills necessary or expedient for the purposes of realising the objects of higher education.

Higher education may be delivered by any licensed higher education institution without restriction as to the length or structure of the academic year.

Tuition and other fees may be charged to students by licensed higher education institutions in accordance with the provisions of this Law and regulations made by the Ministries of Education.

2. Higher education institutions

Article 5.

Higher education institutions in Bosnia and Herzegovina shall be universities and colleges only.

The title 'university':

- (i) shall be limited to higher education institutions undertaking both education and research, offering diplomas and degrees up to and including doctoral level, with objectives including the advancement of knowledge, thought and scholarship in Bosnia and Herzegovina, the educational, scientific, cultural, social and economic development of Bosnia and Herzegovina, the promotion of democratic citizenship and the achievement of the highest standards in teaching, learning and research; and
- (ii) shall be granted by the Ministries of Education only to an accredited higher education institution with an independently audited enrolment of at least 3000 full-time-equivalent students and providing courses or programmes of the first cycle in at least five different subject groups as prescribed in rules to be issued by the Ministry.

The title "college"

- (i) may be granted by the Ministries of Education to a higher education institution that has been accredited to offer diplomas and degrees of the first cycle, with objectives including the preparation and training of individuals for the scientific, cultural and economic development of Bosnia and Herzegovina;
- (ii) shall be granted by the Ministries of Education only to an accredited higher education institution with an independently audited enrolment of at least 500 full-time-equivalent students and providing courses or programmes in at least one recognised subject group as prescribed in rules to be issued by the Ministry.

The responsibilities of the Ministries of Education and procedures for accreditation are as further provided in this Law.

3. Institutional autonomy and legal personality

Article 6.

The formal responsibility for all activities of a licensed higher education institution (both public and private) shall be vested in a governing body.

The membership of the governing body shall be determined in the statute of the institution approved by the responsible Ministry of Education, and shall in each case include members elected by all categories of staff and students

Each licensed higher education institution (both public and private) shall have a principal management authority which in the case of a public university shall be the rector and in the case of a public college shall be the rector or director as provided in the statute of the institution. The principal management authority shall be accountable to the governing body.

Except as otherwise provided in this Law, each licensed public higher education institution being either a university or a college shall have full legal personality in relation to the matters dealt with in this Law including powers to:

- (a) Disposes of and manages land and buildings already owned by them in accordance with the relevant laws;
- (b) Receive and manage funds from any legal source;
- (c) Set and receive tuition and other fees according to law;
- (d) Employ staff;
- (e) Enter into contracts for goods and services;
- (f) Form legal relationships with students;
- (g) Establish commercial enterprises for educational and research purposes;
- (h) Enter into agreements with other higher education institutions in Bosnia and Herzegovina and with institutions internationally;

and shall have such other powers necessary or expedient for the discharge of their functions.

No faculty, institute, department, centre, academy, school, or other constituent part of a university or college shall have any legal status which is independent of the institution; but the statute of the institution shall specify in what manner and to what extent such constituent parts shall exercise authority and take responsibility within the institution.

Licensed higher education institutions shall enjoy freedom of teaching and in scientific and research work within their licences without interference from public authorities other than as provided by this Law.

Licensed higher education institutions shall have the rights, subject to the further provisions of this Law, to:

- a. Elect their governing and management authorities and fix their terms of office;
- b. Arrange their structures and activities through their own rules in conformity with the present Law, other applicable law, and their statutes;
- c. Choose teaching and other staff, set conditions for admission of students and methods of teaching and assessment of students;
- d. Independently develop and implement curricula and research projects;
- e. Within the available financial provisions, choose subjects to be taught; and
- f. Grant titles to professors and other staff.

The premises of licensed higher education institutions shall be inviolable from entry by law enforcement agencies without permission given by or on behalf of the principal management authority, except where entry is necessary for the prevention of an impending offence or an offence already taking place or in the event of natural disaster or accident, or as otherwise provided under the applicable law.

The special status granted by the preceding paragraphs of this Law to licensed higher education institutions shall be accompanied by the requirement that each institution exercises its functions in a manner which demonstrates accountability to the state, to the people and to its staff and students; the mechanisms for such public accountability including, but not limited to, financial accountability, shall be prescribed in legislation of the Ministries of Education.

4. Academic staff rights and obligations

Article 7.

Every higher education institution shall include in its statute or equivalent constitutional document that academic staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their job or any privileges they may have with the institution.

The right of academic staff of higher education institutions to freedom of speech may only be restricted by law.

Academic staff of public universities shall have the freedom to publish the results of their research, subject to rules made by the university relating to the exploitation of intellectual property rights for the benefit of the university.

The statute of every public higher education institution, and the constitution of every private higher education institution shall, as a condition of accreditation, contain provisions which:

- a. Secure for staff freedom of organisation and assembly within the law; and
- b. Protect staff against discrimination on any ground such as sex, race, sexual orientation, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status.

Academic and other staff of higher education institutions shall have the right to challenge any decision or action of a higher education institution in relation to them before a court of competent jurisdiction.

Academic and other staff enter into a contract of employment with the higher education institution, which may restrict the right of the staff member to enter into any other concurrent employment.

Academic and other staff have the following general obligations in addition to those established in the contract of employment:

- a. To observe rules made by the institution;
- b. To have due regard to the rights of other staff and students; and
- c. To give due and full attention to their duties and participate in academic activities.

The appointment of academic staff is in all cases other than temporary or visiting appointments made through a public competition in accordance with criteria set by the statute of the higher education institution and generally accepted standards for the profession concerned.

5. Student Rights and Obligations

Article 8.

Students who are admitted to and enrolled in a higher education institution enter into a contractual relationship with that institution.

Students are entitled to the following rights, which may be elaborated further in the statute of the institution:

- a. To attend all lectures, seminars and other teaching organised in their subject(s) according to their position and, subject to capacity, other organised teaching;
- b. To use the facilities of libraries and other services for students located at the institution;

- c. To participate in elections for student positions in students' representative bodies and other bodies established under the institutions' statute; and
- d. In the case of public higher education institutions, the recognition of transfer of credits between public higher education institutions within Bosnia and Herzegovina on the basis of multilateral or bilateral agreements.

Students have the following obligations:

- a. To observe rules made by the institution;
- b. To have due regard to the rights of staff and other students; and
- c. To give due and full attention to their studies and participate in academic activities.

The statute or equivalent constitutional document of every higher education institution shall contain provisions which:

- a. Secure the students' freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their position or any privileges they may have with the institution;
- b. Secure the students' freedom of speech, organisation and assembly within the law;
- c. Protect students against discrimination on any ground such as sex, race, sexual orientation, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status; and
- d. Provide fair and impartial mechanisms for dealing with disciplinary questions affecting students.

Students have the right to complain about the quality of the teaching or other facilities of the institution and the statute shall make provision for dealing fairly with such complaints.

The circumstances in which students may be removed from registration for academic or disciplinary reasons, and procedures for appeal, shall be elaborated in the statute of the institution.

Students shall have the right to challenge any decision or action of a higher education institution in relation to them before a court of competent jurisdiction.

Persons who have completed the final examination for the degree for which they are enrolled cease to have the status of student.

The statute or other constitutional document of a higher education institution shall provide for the establishment of a students' representative body and to represent students' interests and to contribute to the social, cultural, academic and physical recreation needs of students on the basis of democratic principles and in accordance with the law.

III - RESPONSIBILITIES OF THE AUTHORITIES

1. The Ministry

Article 9.

The Ministry shall be responsible for the implementation of this Law and for:

- a. Planning the development of higher education in BiH in consultation with the Ministries of Education;
- b. Promoting the integration of teaching and research and the stimulation of programmes of research within universities;
- c. Accreditation of higher education institutions; .
- d. Authorising the format and content of Diploma and Diploma Supplement issued by accredited higher education institutions;
- e. Promoting mobility of students and staff within the European Higher Education Area and internationally;
- f. Establishing arrangements for academic and professional recognition within the framework of international agreements and conventions, and through the CRAQ offering advice to the public on the status of foreign qualifications.

2. The Ministries of Education

Article 10.

On the basis of this Law and of their legislation the Ministries of Education shall be responsible for

- a. Creating, merging and closing public higher education institutions;
- b. Licensing public higher education institutions according to published regulations and norms, which shall set standards for academic and other staff, premises, equipment, library and computing facilities;
- c. Regulating the activities of public higher education institutions in accordance with this Law, approving their statutes and prescribing in what circumstances tuition and other fees may be charged to students;
- d. Within the general provisions under the applicable law for the funding of public services in Bosnia and Herzegovina, allocating funds to public higher education institutions for teaching and at such time as determined by the Ministry for research in the public interest according to published criteria in accordance with the advice of a Higher Education Funding Body to be established for this purpose;
- e. Bringing forward proposals for the establishment and administration of one or more schemes for student financial support, including proposals for inter- Ministry agreement in this area;
- f. Promoting equality of opportunity in access and admission to higher education, in staff development and training, in lifelong learning and in all other aspects of higher education;
- g. Promoting links between the higher education sector, industry, commerce and society;
- h. Promoting links between higher education institutions located in the area of the Ministry of Education and higher education institutions in other parts of Bosnia and Herzegovina, neighbouring countries and regions;

i. Licensing private higher education institutions according to published standards equivalent to those applicable to public higher education institutions, provided that a private higher education institution secures a guarantee for the continuation or completion of studies in the case of cessation of activity, pursuant to an agreement with the relevant Ministry of Education.

j. Providing, in accordance with the law, and as thought fit, financial and technical assistance to private higher education institutions and to students enrolled therein.

The Ministries of Education shall ensure that legislation provides for consistency of treatment throughout Bosnia and Herzegovina of the recognition of academic titles granted by public higher education institutions and for the charging of tuition and other fees to students domiciled in Bosnia and Herzegovina.

IV –ADVISORY BODIES IN HIGHER EDUCATION

1. The Higher Education Co-ordination Board

Article 11.

On the basis of this Law and legislation of the Ministries of Education, a Higher Education Co-ordination Board shall be established with responsibility for formulating procedures for accreditation of public and private higher education institutions in Bosnia and Herzegovina in accordance with the provisions of this Law; including

- (i) undertaking periodic quality audit of licensed higher education institutions;
- (ii) recommending to the Ministry a decision on accreditation including the power to award degrees and diplomas;
- (iii) undertaking periodic quality assessment of courses and programmes offered by accredited higher education institutions;
- (iv) advising the Ministries of Education at their request on the results of quality assessment and its consequences for the funding of public higher education institutions.

The Higher Education Co-ordination Board may bring forward proposals for establishing an agency for quality audit and assessment.

2. The Centre for Recognition of Academic Qualifications in BiH

Article 12.

The Centre for Recognition of Academic Qualifications in BiH shall be established by the Ministry.

In accordance with the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165, 1997), Bosnia and Herzegovina shall recognise qualifications from other States Parties to the Convention as similar to the corresponding qualifications prescribed in this Law unless there are substantial differences within the meaning of the Convention.

3. The Higher Education Funding Bodies

Article 13.

On the basis of this Law and legislation of the Ministries of Education, a Higher Education Funding Body (hereinafter 'Body') shall be established by each Ministry of Education.

A Body shall be responsible for administering funds made available to it by the Ministry of Education for the purposes of providing financial support for higher education and at such time as determined by the Ministry the undertaking of research by higher education institutions in the relevant Entity.

In making funds available to a Body, a Ministry of Education may give general policy directions on the administration of funds provided that no such directions shall be given in respect of any particular higher education institution or institutions.

A Body may make grants, loans or other payments to the governing body of any higher education institution in respect of expenditure incurred or to be incurred by them for the purposes of any activities eligible for funding, subject to such written terms and conditions as the Body think fit including, but not limited to, obligations relating to financial accountability, reporting, efficiency, the provision of information and audit.

The terms and conditions on which a Body may make any grants, loans or other payments under this section may enable it to require repayment in whole or in part of any sums paid by the Body if any of the terms and conditions subject to which the sums were paid is not complied with.

Neither a Ministry of Education nor a Body may impose terms and conditions on the allocation of funds to higher education institutions which

- (i) have the effect of discouraging any higher education institution from maintaining or developing its funding from other sources;
- (ii) are framed by reference to particular courses of study or programmes of research (including the contents of such courses or programmes and the manner in which they taught, supervised or assessed) or to the criteria for the selection or appointment of academic staff and for the admission of students.

IV - QUALITY ASSURANCE

1. Accreditation

Article 14.

All higher education institutions in Bosnia and Herzegovina may apply for accreditation by the Ministry under the provisions of this Law.

The existing universities in Bosnia and Herzegovina shall, be considered to be accredited when this Law is enforced and shall be required to apply for review of accreditation within two years of the date of entry into force of this Law.

A higher education institution seeking accreditation for the first time shall apply to the Ministry at least one year in advance of the date from which accreditation is sought. The procedure for a first accreditation shall be set out in rules to be issued by that Ministry.

Re-accreditation of higher education institutions shall be carried out at intervals prescribed by the Ministry.

Failure by a licensed higher education institution to obtain institutional accreditation or re-accreditation will result in a further accreditation event in not more than one year.

A second failure to obtain accreditation will result in the revocation of the licence. Revocation may be appealed to a court of competent jurisdiction.

Temporary accreditation may be granted.

2. Quality assurance and assessment

Article 15.

Licensed higher education institutions have primary responsibility for the quality of their courses and programmes.

Periodic quality assessment of courses and programmes at accredited higher education institutions may be conducted by the Higher Education Co-ordination Board, or by the agency established under the provisions of this Law

3. Degrees and Diplomas

Article 16.

An accredited higher education institution shall have power to award the degrees and diplomas specified in its accreditation certificate. Degree and diploma documents shall be in accordance with a format approved by the Ministry.

The statute of a higher education institution shall specify the degrees and diplomas awarded by the institution and shall include power to make academic and other rules governing the award of such degrees and diplomas.

First cycle degree and diploma courses offered by public higher education institutions shall be flexibly constructed so as to allow entry and exit at appropriate points with the award of credits and/or qualifications depending on the progress made by an individual student.

In formulating its rules a public higher education institution shall take into account the current European system for Credit Accumulation and Transfer.

A higher education institution shall otherwise have freedom to organise its curricula, assessment and examination schemes by means of rules which are transparent, fair and readily accessible to students.

Only those degrees and diplomas awarded by accredited higher education institutions shall be recognised by the State or the Entities for the purposes of employment, or the holding of any public office or by the CRAQ, provided that the degrees and diplomas of existing graduates of the universities in Bosnia and Herzegovina shall be deemed to be recognised for these purposes.

It shall be the duty of every accredited higher education institution to provide each person awarded a degree or diploma with a Diploma and a Diploma Supplement issued under the seal of the higher education and both in formats as set out in a rule to be issued by the Ministry.

A degree or diploma once awarded may only be revoked in specified circumstances set out in rules made under the statute of the higher education institution and subject to appeal to a court of competent jurisdiction.

The Ministry, in consultation with other relevant governmental bodies, may prescribe in a rule the educational requirements additional to the award of a degree or diploma for entry to any profession which may be regulated by any other law or by the terms of any international convention or agreement.

VI – CONCLUDING PROVISIONS

1. Applicable Law

Article 17.

The Law shall supersede any provision in the applicable law which is inconsistent with it.

All State and Entity Laws as well as other relevant regulations shall be harmonised with the provisions of this Law no later than 6 (six) months after this Law has come into force.

2. Entry into Force

Article 18.

The Law shall enter into force on the eighth (8th) day of the date of its publication in the Official Gazette of Bosnia and Herzegovina.



Draft State-Level Framework Higher Education Law Bosnia and Herzegovina

The work of the Council of Europe drafting group has been based on the clearly expressed intention to make BiH higher education a part of the European Higher Education Area by joining the Bologna Process and by the commitment to ratify the Lisbon Recognition Convention.

The work has been guided by the Report on the Legal Framework of Higher Education in BiH adapted 11 July 2001 by the Higher Education Co-ordination Board and the Message to the People of Bosnia and Herzegovina on Education Reform dated 21 November 2002 and the commitment by the responsible ministers to the pledges of that message.

As the Bologna Process gains momentum, it has become clear that legislation in many European states must be adjusted to allow for the continuous development. The drafting group has tried to prepare for such development by submitting a draft state law that deals with the general principles, leaving the necessary legal regulations for institutional governance and management to laws on entity level.

Building on the pledge of the Educational Reform to obtain agreement from the cantonal authorities in the Federation to defer their powers in the field of higher education to the entity level, more detailed regulations should be left to bylaws and to institutional statutes.

Autonomy of higher education institutions is a central element in the Bologna Process, as the ministers responsible for the process see the institutions as partners in the process. As the university is assumed to have the responsibility for all its activities, it follows that it should also have responsibility for its faculties.

Autonomy must be balanced by accountability. Greater autonomy for higher education institutions therefore also means greater accountability relating to budgets, appointments, student intake, degrees awarded and the quality of teaching and learning.

A number of elements in the Bologna Process will have consequences legislation:

- Concerning autonomy, the law must delegate the necessary decision power to the institution – for changes in curricula and teaching methods, for internal self-governance, for interaction with other organisations nationally and internationally and for economic transactions. Accountability must go hand in hand with autonomy.
- For universities to be responsible partners, the university leadership must be in charge of institutional activity and in control of the economy. Faculties within universities should not be legally independent persons relating directly to the Ministry of Education. Only the university leadership should relate directly to the ministry.

- The Bologna Process assumes that students are full members of the higher education community. They should participate in the organisation and content of education. Student participation in institutional governance should be prescribed by law.
- The Bologna Process requires adoption of a system of degrees essentially based on two main cycles, undergraduate and graduate. (The doctorate may be considered a third cycle.) The law must allow for the introduction of the new degrees.
- Quality assurance systems will be important cornerstones in each national system of higher education. The quality assurance system must be independent of political and institutional interaction and it must have a basis in the legislation. The Bologna Process will build on the co-operation of national quality assurance systems. This means that BiH should have a quality assurance system on state level. Also the national information center prescribed by the Lisbon Recognition Convention should be on state level.

The Bologna Process is not a process moving towards a fixed goal: it is a dynamic system. This means that an effective law on higher education should only regulate that which is essential to regulate and which cannot effectively be regulated in any other way. It should be written to allow for change, remaining relevant as the higher education system develops.