

Harmonisation, Quality Assurance
and Accreditation in Africa



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

Policy Brief n.9

THE SIMULTANEOUS CONCEPTION AND BIRTH OF ERASMUS AND ECTS: ANY LESSON TO BE DRAWN IN OTHER CONTINENTS?

Commemorating the 40th anniversary of the Adonnino Report to the European Council, and as a homage to Pietro Adonnino, Chair of the Ad-hoc Committee on “A people’s Europe”, and to Hywel Jones, Angeliki Verle and Domenico Lenarduzzi, the European Commission’s senior officials who conceived and launched the Erasmus programme (also to Gregorio Garzón, often forgotten)

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INTRODUCTION: EU ACTION PREDATES THE LAUNCH OF THE BOLOGNA PROCESS

HAQAA's Policy Brief n.1 on Recognition includes a section that compares (and distinguishes !!!) EU action on Higher Education and the so-called Bologna process in the same thematic area. I refer the reader to it (<https://haqaa3.obreal.org/wp-content/uploads/2024/11/POLICY-BRIEF-1-on-RECOGNITION.pdf>). The main paragraphs are the following:

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

The end result of this interacting double track is very complex and defies any summary.¹ However, for the purposes of this Brief, the following outline is necessary.

The Bologna process does not include legal rules and intends to remain circumscribed to the domains in which Ministers of HE are competent.. It has not set up, either, any common public activity (exchange or mobility programs)

...

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.

...

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.

For the purposes of this Policy Brief, it is essential to add an uncontested datum: EU action predates the launch of the Bologna Process, which can even be interpreted as a reaction to it in order to limit its possible scope. The Erasmus programme and the ECTS system were conceived in the EU framework in 1985, fourteen years before the Bologna Declaration was approved.

REVISITING THE HISTORY OF ERASMUS AND THE ECTS: THE SIMULTANEOUS BIRTH OF THE TWO CHILDREN IN FIVE STEPS

THE WISH TO HAVE A CHILD: THE ADONNINO REPORT

On the 25th and 26th June 1984, the European Council, under French Presidency, “consider(ed) it essential that the Community should respond to the expectations of the

¹ 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.

people of Europe by adopting measures to strengthen and promote its identity and its image both for its citizens and for the rest of the world. An ad-hoc Committee (on “A people’s Europe”) (was) set up to prepare and coordinate this action”. A Committee’s first Report was submitted and, after a meeting on the 3rd and 4th of December 1984 under Irish Presidency, a second Report was commissioned on the 29th and 30th March 1985 and was submitted to the Milan European Council on the 28th and 29th June 1985 - both meetings under Italian Presidency-. The Report took the name of the chair of the Committee, Pietro Adonnino

(see https://aei.pitt.edu/992/1/andonnino_report_peoples_europe.pdf ; a nice and nostalgic copy of the typewritten original – we were in 1985 !!! – version of the Report can be found in <https://www.ombudsman.europa.eu/en/historical/en/4659>).

The Report includes a section 5 on Youth, education, exchanges and sport with a subsection 5.6 on University cooperation which (emphasis added) points to

- (a) implement, on the basis of the experience acquired, **a comprehensive European inter-university programme of exchanges and studies** aimed at giving this opportunity to a significant section of the Community's student population; and
- (b) 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.

It is probably impossible now to reconstruct how the Ad-hoc Committee operated internally for the drafting of the Second Adonnino Report and who were the members who mainly contributed to it. However, two reminders are convenient, who seem to lead to the conclusion that the European Commission was probably the main contributor:

- First, it must be emphasized that, contrary to what is usually believed, and too often written, the composition of the European Council is **not** limited to the Heads of State and/or Government of EU Member States -HoS/G- (so: in parallel to the Council of the European Union, which is composed just by the representatives of Member States Governments). **The President of the European Commission has always been (and remains: Art. 15.2 TEU) a full member of the European Council**. Therefore, one of the eleven members of the Ad-hoc Committee chaired by Pietro Adonnino was the representative of Jacques Delors, the President of the European Commission (the other ten were the representatives of the HoS/G of the, at the time, just before Spain's and Portugal's accession, ten EEC's Member States).
- Second, when one looks at the members of the Committee (no woman among them !!!), discovers that **Jacques Delors' representative was Carlo Ripa di Meana** and knows his biography and political trajectory, it is impossible not to think that he was one of the main contributors to the drafting of the report.

THE CONCEPTION: THE EUROPEAN COMMISSION'S PROPOSAL

The European Commission's proposal to the Council is dated on the 2nd of March 1986 (OJ No C 73, 2. 4. 1986, p. 4.

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:51985PC0756>) and explicitly recognizes its foundation in the Adonnino Report and the main specific instrument: Inter-University cooperation.

Whereas the European Council at its meeting of 28/29 June 1985 (8) adopted the report of the ad hoc Committee on a People's Europe and mandated the Commission and the Council, acting within their respective powers, to ensure the implementation of the proposals contained therein;

Whereas the Commission, in following up the People's Europe initiative of the European Council, has attached the highest priority to university cooperation;

(This reference to “university or inter-university cooperation” is repeated in many other recitals).

THE VERY DIFFICULT PREGNANCY, MONITORED BY JACQUES DELORS HIMSELF

The extremely difficult process of discussion of the proposal within the Council has been explained by Jacques Delors himself, the President of the European Commission at the time (<https://institutdelors.eu/en/publications/bon-anniversaire-erasmus-et-bon-vent-2/>) . The proposal had to be withdrawn by the European Commission itself, a legal possibility very rarely used, in order to avoid it being denaturalized by a unanimous decision of the Council. It was then brought to the highest political level (European Council) and finally approved. Delors words (in French) are very clear (emphasis added):

In 1986, when the Commission adopted its Erasmus proposal, cooperation between European universities was in its infancy. Member States were deeply suspicious – if not outright hostile – towards the idea of European Institutions getting involved in university affairs. It is assumed today that there was enthusiastic support for the creation of Erasmus, however, this was far from being the case. In fact, the opposite was true. When the Council meeting of ministers for education took place in October of that year, the UK Presidency had drawn up an agreement that not only reduced the programme's budget by two-thirds, but also excluded student exchanges completely. An Erasmus, therefore, that was not intended to apply to students! This agreement was approved by the ministers. Alerted by my adviser, whom I had asked to attend the Council, and in agreement with Manuel Marin, the European Commissioner who sat on the Council, I decided to withdraw the Commission's proposal, as the Treaty allowed me to do. This was one of the rare cases in history where the Commission had to withdraw its

proposal on the grounds that its original concept had been distorted by the Council.

It was at this time that I requested the heads of state and government, who were to meet in London two months later in December 1986 under the presidency of Margaret Thatcher, to take a decision on the future of Erasmus. Ahead of the meeting, in a one-on-one discussion with the British Prime Minister, I told her that if it failed, I would have to publicly regret the European Council's lack of interest in students and universities. Beyond diplomatic language, it would signify a marked failure of the summit over which she presided. Margaret Thatcher understood this fact, and it was shortly thereafter that the heads of state and government began paving the way for Erasmus' adoption.

Nothing to add: extremely clear and precise words.

THE BIRTH: THE EU COUNCIL DECISION

Finally, on 15 June 1987, the Council approves Council Decision 87/327/EEC adopting the European Community Action Scheme for the Mobility of University Students (Erasmus) (OJ L 166, 25.6.1987, p. 20–24) <https://eur-lex.europa.eu/eli/dec/1987/327/oj/eng>

Its content follows very closely the Commission's proposal. Its Annex describes 4 Actions:

ACTION 1 (on the)

Establishment and operation of a European university network ...

ACTION 2 (on the)

ERASMUS student grants scheme

ACTION 4 (on)

Complementary measures to promote student mobility in the Community

ACTION 3 envisages (emphasis added) Measures to promote mobility through the academic recognition of diplomas and periods of study. It is in this framework that ECTS is launched:

The Community will undertake, through cooperation with the competent authorities in the Member States, ...:

1. measures to promote the European Community Course Credit Transfer System (ECTS) on an experimental and voluntary basis in order to provide

a means by which students undergoing or having completed higher education and training may receive credit for such training carried out at universities in other Member States. ...

2. further development of the European Community Network of National Academic Recognition Information Centres; ...

3. measures to promote, on a voluntary basis, joint curriculum development between universities in different Member States ...

THE CURE OF A VERY DANGEROUS GENETIC DISEASE: THE ERASMUS JUDGMENT OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES AND THE “RE-ADOPTION” OF THE ERASMUS COUNCIL DECISION

However, the Council Decision was affected by a very dangerous genetic disease: its legal basis. Indeed, the only legal basis the European Commission could find in the EEC Treaty that gave a competence to the European Community to set up the Erasmus programme was Article 128, which established *The Council shall, on a proposal of the Commission and after the Economic and Social Committee has been consulted, establish general principles for the implementation of a common policy of occupational training capable of contributing to the harmonious development both of national economies and of the Common Market.*

The choice (rather the “discovery by the Commission”) of this legal basis was problematic for many members of the Council (i.e. for many representatives of Member States governments) for two reasons:

- First, because on substance, it opened the door to European Community action in an area that many members of the Council (in fact, most of them) considered “reserved” to Member States.
- Secondly, because, in terms of formalities, it was a provision that, by not establishing a specific voting procedure, allowed the Council to decide by a simple majority of its members (a procedure judged very “dangerous” by those members of the Council more reluctant to allow the European Community to act in the field of higher education).

Therefore, the Council, by a unanimous decision of its members, the representatives of EU Member States Governments, decided to add as legal basis article 235 of the EEC Treaty, which,

- On one side, required a unanimity within the Council. In other words, gives to anyone of its members a sort of veto power.
- On the other side, was a “generic” article to be applied restrictively and casts a doubt (to say the least) on the possibility for further action of the EEC in the sensitive area of education.

The intention was clear: to blow a sort of preemptive strike to further EEC action in the sensitive area of higher education.

Once again, the European Commission reacted very boldly. It filed before the Court of Justice of the European Communities (CJEC) an action for annulment of the very same decision it had worked so hard to have approved. The objective was to obtain a judgment recognizing that article 128 EEC Treaty was a sufficient basis for the Erasmus programme (hoping that the Court would find a way to preserve the effects of the annulled decision). **The CJEC found the way to solve the conundrum in its Erasmus judgment of 30th May 1989** (<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:61987CJ0242>). **On one side (the essential side), it recognizes the competence of the EEC on the basis of article 128.** I summarize the main recitals of the judgment:

19. In the light of the foregoing, it must be held that the measures envisaged under the Erasmus programme do not exceed the limits of the powers conferred on the Council by Article 128 of the Treaty in the area of vocational training .

...

21 It follows from the foregoing that the Council was empowered to enact the contested measure on the basis of Article 128 of the Treaty, subject to examination of the question whether that measure exceeded the scope of vocational training .

...

24 As the Court has consistently held (see primarily its judgment of 13 February 1985 in Gravier, cited above), any form of education which prepares for a qualification for a particular profession, trade or employment or which provides the necessary skills for such a profession, trade or employment is vocational training, whatever the age and the level of training of the pupils or students, even if the training programme includes an element of general education .

25 In its judgment of 2 February 1988 in Case 24/86 Blaizot ((1988)) ECR 379, the Court has already stated that, in general, university studies fulfil those criteria and the only exceptions are certain courses of study which, because of their particular nature, are intended for persons wishing to improve their general knowledge rather than prepare themselves for an occupation .

26 It also follows from that judgment that studies do not cease to constitute vocational training where they do not directly provide the required qualification for a particular profession but provide specific training and skills, or in the case of university education, they are divided into different stages which must be regarded as a single unit, where it is not possible to make a distinction between one stage which does not constitute vocational training and a second which does (see also the judgment of 27 September 1988 in Case 263/86 Humbel ((1988)) ECR 5365).

But with the wisdom that characterized the CJEC at the time, the Court finds an imaginative way of not annulling the Decision. The addition of Article 235 was justified

33 ... because the programme in question include(s) some aspects falling within the sphere of research .

37 It follows that inasmuch as the contested decision concerns not only the sphere of vocational training but also that of scientific research, the Council did not have the power to adopt it pursuant to Article 128 alone and thus was bound, before the Single European Act entered into force, to base the decision on Article 235 as well . The Commission's first submission that the legal basis chosen was unlawful must therefore be rejected.

Therefore, the action for annulment filed by the Commission is rejected while its main argument (the possibility of founding EEC action on Art. 128 of the EEC Treaty) is accepted and reconfirmed: In other words, the Commission won while losing. The EC's Legal team who was able to juggle these sophisticated legal and political arguments and tactics was led by Gregorio Garzón, Principal Legal Adviser in its Legal Service competent for the file, accompanied by Julian Currall and Georgios Kremlis. This is why this Policy Brief is also a homage to him.

After the judgment, the Commission submitted a new proposal based exclusively on Art. 128 that simply “cleans” the previous decision from all the “dust” (the secondary aspects that the Court judged justified the use of art. 235 as legal basis). It was adopted by the Council as COUNCIL DECISION of 14 December 1989 amending Decision 87/327/EEC adopting the European Community action scheme for the mobility of university students (Erasmus) (89/663/EEC).

A VERY SHORT SUMMARY OF THE HISTORY

In summary, what we are commemorating is the capacity of the European Commission to turn a loose recommendation to the European Council by an ad-hoc Committee, set up to bring the idea of Europe closer to the people, into one of the most successful and popular mechanisms of EU integration.

ANY LESSON TO BE DRAWN CONCERNING INTEGRATION STRATEGIES AND ECTS?

The lessons that can be drawn from other continents are pretty evident.

The first concerns integration strategies. In terms of the Analytical Framework produced by OBREAL Global and the AAU in the framework of the HAQAA initiative (chapters 1 and 2 of the HAQAA Materials on African and Regional Integration in Higher Education

<https://haqaa3.obreal.org/publications/#Materials>, the Erasmus history is the best possible demonstration that, in some areas, using in combination the instruments of “common activities” and “diplomatic instruments” is much more effective than intending a harmonization through the enactment of “legal regional rules” (which, for many different reasons, can be impossible). This combination can generate a “narrative” that, by rewarding those who share it and penalizing those who diverge, creates a “pressure for compliance much more effective than loose or unenforced legal obligations.

The second concerns ECTS. ECTS (the European Credit Transfer System) was not conceived as a regulatory instrument or an instrument to harmonize curricula but as an instrument to the service of a serious and imaginative mobility programme; as an instrument to be used on a voluntary basis, mainly in the framework of inter-University agreements. In plain words: Erasmus (the mobility programme) came first, and ECTS came afterwards.

A third lesson may perhaps be drawn by comparing the vitality of EU’s Erasmus with the progressive fading away of the reformist impuls of the Bologna Process. But this opens a discussion that goes much beyond the scope of this Policy Brief.

BACK TO HAQAA POLICY BRIEF Ns.1 AND 5: A COHERENT APPROACH

The lesson is already known to those who have read HAQAA Policy Briefs. In Policy Brief 1 on *Unpacking “recognition in HE”: different issues, different policy contexts, different instruments: a policy-oriented eye opener*, one of the main arguments that are discussed concerns exactly this:

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. ... Common public activities and diplomatic instruments are effective insomuch as they incentivize Universities to open and to collaborate with other Universities. ...

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.**

And Policy Brief n.5 on *Giving greater effectiveness to African continental integration in and through Higher Education: Empowering Universities as Development and Integration Agents*, written by prof. Olusola Oyewole, the Secretary General of the Association of African Universities (AAU), concludes with the following paragraph:

“The empowerment of universities as development agents can be the best possible contribution to higher education from the African continental institutional framework (including in its bi-continental relations with the European Union and its Member States). The emphasis on the possible and needed contribution of Universities to development allows to integrate in the best possible way the traditional three functions of Universities (teaching, research-and-innovation, community service) and allows also to integrate the national and the international dimensions of these functions: indeed, the empowerment of Universities as development agents opens a whole world of opportunities (and funding) beyond those offered by teaching and research-and innovation international projects. Continental and regional integration and higher education work together in a twofold apparently opposite but in fact complementary direction: Integration must strengthen Universities and Universities must strengthen Integration. This is why I use the expression “continental Integration in and through higher education”.