

## INTERNATIONAL INSTRUMENTS

### Right to Education and Higher Education

This document provides an overview of the provisions of the international human rights framework which reference higher education, or similar terms, explicitly. It includes instruments which are binding on the states which have ratified them, as marked with an asterisk below. It also includes non-binding instruments which are significant for various reasons - for example, a non-binding instrument may constitute authoritative interpretation which provides guidance to states regarding implementation of a binding instrument; indicate evolving practices or emerging consensus on particular issues; and/or they be subject to structured follow up and review processes which provide space for dialogue about rights in practice. When building strategic advocacy and litigation strategies to facilitate the enjoyment of human rights-based higher education, it is important to consider all relevant sources of international and comparative material, in order to understand current developments and to present persuasive arguments concerning the effective implementation of human rights within specific contexts around the world.

#### International Frameworks

- Universal Declaration of Human Rights\*, 1948
- International Covenant on Economic, Social and Cultural Rights, \* 1966
- Convention on the Rights of the Child\*, 1989
- Convention on the Elimination of All Forms of Discrimination against Women\*, 1979
- Convention on the Rights of Persons with Disabilities\*, 2006
- Convention against Discrimination in Education\*, 1960
- Global Convention on the Recognition of Qualifications concerning Higher Education\*, 2019
- UNESCO Recommendation on the Recognition of Studies and Qualifications in Higher Education, 1993
- UNESCO Recommendation concerning the status of higher-education teaching personnel, 1997

#### Regional Frameworks

- Charter of the Organisation of American States, 1948
- Additional Protocol to the American Convention on Human Rights, Protocol of San Salvador, 1998
- African Charter on the Rights and Welfare of the Child, 1990

- African Youth Charter, 2006
- European Charter for Regional or Minority Languages, 1992
- European Convention on the Legal Status of Migrant Workers, 1977
- Revised European Social Charter, 1996 \*
- Convention on the Recognition of Qualifications concerning Higher Education in the European Region, 1997\*
- Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab States, 1978\*
- Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education, 2011\*
- Latin America and the Caribbean Revised Regional Recognition Convention, 2019\*
- Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States Bordering on the Mediterranean 1976\*
- ASEAN Human Rights Declaration, 2012
- Council of Europe Recommendation on the public responsibility for higher education and research, 2007

Right to Education Initiative's pages on [International Law](#) and [Higher Education](#).

## International Frameworks

### Universal Declaration of Human Rights\*, 1948

#### Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

### International Covenant on Economic, Social and Cultural Rights,\* 1966

#### Article 13

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
  - c. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

CESCR General Comment No. 13 on the Right to Education, UN Doc. E/C.12/1999/10 (8 December 1999) :

**6. Some general remarks :** While the precise and appropriate application of the terms will depend upon the conditions prevailing in a particular State party, education in all its forms and at all levels shall exhibit the following interrelated and essential features:

**(b) Accessibility.** Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions:

Non-discrimination - education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds (see paras. 31-37 on non-discrimination);

Physical accessibility - education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a "distance learning" programme);

Economic accessibility - education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education: whereas primary education shall be available "free to all", States parties are required to progressively introduce free secondary and higher education;

**12.** While the content of secondary education will vary among States parties and over time, it includes completion of basic education and consolidation of the foundations for life-long learning and human development. It prepares students for vocational and higher educational opportunities. Article 13 (2) (b) applies to secondary education "in its different forms", thereby recognizing that secondary education demands flexible curricula and varied delivery systems to respond to the needs of students in different social and cultural settings. The Committee encourages "alternative" educational programmes which parallel regular secondary school systems.

**14.** "[P]rogressive introduction of free education" means that while States must prioritize the provision of free primary education, they also have an obligation to take concrete steps towards achieving free secondary and higher education. For the Committee's general observations on the meaning of the word "free", see paragraph 7 of general comment No. 11 on article 14.

**Article 13 (2) (c): The right to higher education**

**17.** Higher education includes the elements of availability, accessibility, acceptability and adaptability which are common to education in all its forms at all levels.

**18.** While article 13 (2) (c) is formulated on the same lines as article 13 (2) (b), there are three differences between the two provisions. Article 13 (2) (c) does not include a reference to either education "in its different forms" or specifically to TVE. In the Committee's opinion, these two omissions reflect only a difference of emphasis between article 13 (2) (b) and (c). If higher education is to respond to the needs of students in different social and cultural settings, it must have flexible curricula and varied delivery systems, such as distance learning; in practice, therefore, both secondary and higher education have to be available "in different

forms". As for the lack of reference in article 13 (2) (c) to technical and vocational education, given article 6 (2) of the Covenant and article 26 (1) of the Universal Declaration, TVE forms an integral component of all levels of education, including higher education.

**19.** The third and most significant difference between article 13 (2) (b) and (c) is that while secondary education "shall be made generally available and accessible to all", higher education "shall be made equally accessible to all, on the basis of capacity". According to article 13 (2) (c), higher education is not to be "generally available", but only available "on the basis of capacity". The "capacity" of individuals should be assessed by reference to all their relevant expertise and experience.

### **Academic freedom and institutional autonomy**

**38.** In the light of its examination of numerous States parties' reports, the Committee has formed the view that the right to education can only be enjoyed if accompanied by the academic freedom of staff and students. Accordingly, even though the issue is not explicitly mentioned in article 13, it is appropriate and necessary for the Committee to make some observations about academic freedom. The following remarks give particular attention to institutions of higher education because, in the Committee's experience, staff and students in higher education are especially vulnerable to political and other pressures which undermine academic freedom. The Committee wishes to emphasize, however, that staff and students throughout the education sector are entitled to academic freedom and many of the following observations have general application.

### **General legal obligations**

**40.** The enjoyment of academic freedom requires the autonomy of institutions of higher education. Autonomy is that degree of self-governance necessary for effective decision-making by institutions of higher education in relation to their academic work, standards, management and related activities. Self-governance, however, must be consistent with systems of public accountability, especially in respect of funding provided by the State. Given the substantial public investments made in higher education, an appropriate balance has to be struck between institutional autonomy and accountability. While there is no single model, institutional arrangements should be fair, just and equitable, and as transparent and participatory as possible.

**48.** In this respect, two features of article 13 require emphasis. First, it is clear that article 13 regards States as having principal responsibility for the direct provision of education in most circumstances; States parties recognize, for example, that the "development of a system of schools at all levels shall be actively pursued" (art. 13 (2) (e)). Secondly, given the differential wording of article 13 (2) in relation to primary, secondary, higher and fundamental education, the parameters of a State party's obligation to fulfil (provide) are not the same for all levels of education. Accordingly, in light of the text of the Covenant, States parties have an enhanced obligation to fulfil (provide) regarding the right to education, but the extent of this obligation is not uniform for all levels of education. The Committee observes that this interpretation of the obligation to fulfil (provide) in relation to article 13 coincides with the law and practice of numerous States parties.

### **Specific legal obligations**

**51.** As already observed, the obligations of States parties in relation to primary, secondary, higher and fundamental education are not identical. Given the wording of article 13 (2), States parties are obliged to prioritize the introduction of compulsory, free primary education. This interpretation of article 13 (2) is reinforced by the priority accorded to primary education in article 14. The obligation to provide primary education for all is an immediate duty of all States parties.

**52.** In relation to article 13 (2) (b)-(d), a State party has an immediate obligation “to take steps” (art. 2 (1)) towards the realization of secondary, higher and fundamental education for all those within its jurisdiction. At a minimum, the State party is required to adopt and implement a national educational strategy which includes the provision of secondary, higher and fundamental education in accordance with the Covenant. This strategy should include mechanisms, such as indicators and benchmarks on the right to education, by which progress can be closely monitored.

**57.** In its general comment No. 3, the Committee confirmed that States parties have “a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels” of each of the rights enunciated in the Covenant, including “the most basic forms of education”. In the context of article 13, this core includes an obligation: to ensure the right of access to public educational institutions and programmes on a non-discriminatory basis; to ensure that education conforms to the objectives set out in article 13 (1); to provide primary education for all in accordance with article 13 (2) (a); to adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education; and to ensure free choice of education without interference from the State or third parties, subject to conformity with “minimum educational standards” (art. 13 (3) and (4)).

**59.** By way of illustration, violations of article 13 include: the introduction or failure to repeal legislation which discriminates against individuals or groups, on any of the prohibited grounds, in the field of education; the failure to take measures which address de facto educational discrimination; the use of curricula inconsistent with the educational objectives set out in article 13 (1); the failure to maintain a transparent and effective system to monitor conformity with article 13 (1); the failure to introduce, as a matter of priority, primary education which is compulsory and available free to all; the failure to take “deliberate, concrete and targeted” measures towards the progressive realization of secondary, higher and fundamental education in accordance with article 13 (2) (b)-(d); the prohibition of private educational institutions; the failure to ensure private educational institutions conform to the “minimum educational standards” required by article 13 (3) and (4); the denial of academic freedom of staff and students; the closure of educational institutions in times of political tension in non-conformity with article 4.

**CESR General Comment No. 20 on Non-discrimination in economic, social and cultural rights, UN Doc. E/C.12/GC/20 (2 July 2009)**

**Introduction and Basic Premises :**

**4.** The Covenant also explicitly mentions the principles of non-discrimination and equality with respect to some individual rights. Article 3 requires States to undertake to ensure the equal right of men and women to enjoy the Covenant rights and article 7 includes the “right to equal

remuneration for work of equal value" and "equal opportunity for everyone to be promoted" in employment. Article 10 stipulates that, inter alia, mothers should be accorded special protection during a reasonable period before and after childbirth and that special measures of protection and assistance should be taken for children and young persons without discrimination. Article 13 recognizes that "primary education shall be compulsory and available free to all" and provides that "higher education shall be made equally accessible to all"

### **Convention on the Rights of the Child\*, 1989**

#### **Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
  - a. Make primary education compulsory and available free to all;
  - b. Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
  - c. Make higher education accessible to all on the basis of capacity by every appropriate means;
  - d. Make educational and vocational information and guidance available and accessible to all children;
  - e. Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

### **Convention on the Elimination of All Forms of Discrimination against Women\*, 1979**

#### **Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- a. The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

### **CEDAW General Recommendation No. 36 on the right of girls and women to education, UN Doc. CEDAW/C/GC/36 (27 November 2017)**

#### **Right to education : existing normative framework**

**10.** Although it is recognised internationally, including by UNESCO, that education can be progressively implemented according to available resources, aspects of national law that constitute the core of the right to education must be immediately implemented. These include: ensuring the right of access to public educational institutions and programmes on a non- discriminatory basis; ensuring that education conforms to the objectives set out in international standards; providing primary education for all; adopting and implementing a national educational strategy that includes provision for fundamental, secondary, and higher education; and, ensuring free choice of education without interference from the State or third parties, subject to conformity with ‘minimum educational standards’.

### **Rights within education**

**74.** Several factors account for the under-representation of women in leadership and decision-making positions at all levels of education. These include: limited access to education, especially opportunities for higher education for those teaching at the lower levels; discriminatory appointment and promotion practices; family attitudes; career interruptions; cultural stereotyping; alienation from the male culture of networking and patronage and continued resistance to including women in management positions.

**75.** The Committee recommends that States parties institute the following measures to close the gender gap in leadership positions at all levels of education to ensure that the discrimination women face in this regard is eliminated:

- a. Increase women’s professional mobility in institutions of higher learning by providing grants and/or scholarships to enable them to acquire advanced postgraduate degrees and introduce incentives/schemes to retain them;
- b. Strengthen efforts to increase the number of females in leadership positions at all levels of education especially university professors in all fields, through the use of measures, including temporary special measures in accordance with article 4, paragraph 1, CEDAW and the GR 25;
- c. Review appointment and promotion procedures and remove any discriminatory provisions which act as barriers to women’s equal participation in leadership positions in educational institutions and address discriminatory practices in appointments and promotions;
- d. Address prevailing organisational culture which is unfavourable to women’s upward mobility in the teaching profession;
- e. Establish targets, within a given timeline, to ensure parity in Higher Education positions at senior positions, professorships and as Chancellors and Vice- Chancellors in Universities;
- f. Establish policies and establish quotas for women’s equal representation on higher education governing bodies such as senates, councils and on research bodies.

### **Convention on the Rights of Persons with Disabilities\*, 2006**

#### **Article 24 : Education**

**5.** States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination

and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

### **Convention against Discrimination in Education\*, 1960**

#### **Article 4**

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

- a. To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;

### **Global Convention on the Recognition of Qualifications concerning Higher Education\*, 2019**

#### **Preamble**

The General Conference of the United Nations Educational, Scientific and Cultural Organization, meeting in Paris from 12 to 27 November 2019 at its 40th session, Inspired by a common will to strengthen educational, geographical, humanitarian, cultural, scientific and socioeconomic ties between States Parties, and to enhance dialogue between regions and the sharing of their recognition instruments and practices,

Recalling the Constitution of the United Nations Educational, Scientific and Cultural Organization (UNESCO), which stipulates that “the purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture”,

Mindful of the provisions of the Charter of the United Nations of 1945, the Universal Declaration of Human Rights of 1948, the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967, the Convention relating to the Status of Stateless Persons of 1954, the UNESCO Convention against Discrimination in Education of 1960 and in particular its Article 4a, the International Covenant on Economic, Social and Cultural Rights of 1966, and the UNESCO Convention on Technical and Vocational Education of 1989,

Mindful of the UNESCO Recommendation on the Recognition of Studies and Qualifications in Higher Education of 1993; the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel of 1997; the United Nations Declaration on the Rights of Indigenous Peoples of 2007; and the UNESCO Recommendation on Science and Scientific Researchers of 2017,

Building on the UNESCO regional conventions on the recognition of qualifications concerning higher education,

Reaffirming the States Parties’ responsibility to promote inclusive and equitable quality education at all levels and lifelong learning opportunities for all,

Conscious of increasing international cooperation in higher education, of the mobility of students, workers, professionals, researchers and academics, of changes in scientific research, and of the different modes, methods, developments and innovations in teaching and learning,

Considering higher education, provided by both public and private institutions, as a public good and a public responsibility, and being aware of the need to uphold and protect the principles of academic freedom and of the autonomy of higher-education institutions,

Convinced that the international recognition of qualifications concerning higher education will facilitate interdependent learning and knowledge development via the mobility of learners and learning, academics, scientific research and researchers, and workers and professionals and will enhance international cooperation in higher education,

Respecting the cultural diversity among the States Parties, including, *inter alia*, differences in educational traditions and in the values of higher education,

Desiring to respond to the need for a global convention on the recognition of qualifications concerning higher education to complement the UNESCO regional conventions on the recognition of qualifications concerning higher education, and to enhance the cohesion between them,

Convinced of the need to find common, practical and transparent solutions to improve recognition practices globally,

Convinced that this Convention will promote international mobility, as well as communication and cooperation regarding fair and transparent procedures for recognition, and quality assurance and academic integrity in higher education at a global level,

Adopts this Convention on this twenty-fifth day of November 2019.

## **SECTION I. DEFINITION OF TERMS**

### **Article I**

For the purposes of this Convention, the following definitions shall apply:

**Access (to higher education):** the right provided to any individual holding a qualification to apply and be considered for admission to a level of higher education

**Admission (to higher-education institutions and programmes):** the act of, or system for, allowing **qualified applicants to pursue higher education at a given institution and/or in a given programme**

#### **Applicant:**

- a. an individual submitting to the competent recognition authority a qualification, partial studies, or prior learning for assessment and/or recognition; or
- b. an entity acting with consent on behalf of an individual

**Assessment:** the evaluation of an applicant's qualifications, partial studies, or prior learning by a competent recognition authority engaged in the evaluation of qualifications

**Competent authority:** an individual or entity that has the authority, capacity, or legal power to perform a designated function

Competent recognition authority: an entity which, in accordance with the laws, regulations, policies, or practices of a State Party, assesses qualifications and/or makes decisions on the recognition of qualifications

Constituent units: official entities of a State Party to this Convention at the level of subnational jurisdictions, such as provinces, states, counties, or cantons, in accordance with Article XX b), Federal or Non-Unitary Constitutional Systems, of this Convention

Cross-border education: all modes of educational delivery which involve the movement of people, knowledge, programmes, providers and curriculum across States Parties' borders, including, but not limited to, quality-assured international joint degree programmes, cross-border higher education, transnational education, offshore education and borderless education

Displaced person: an individual forced to move from his or her locality or environment and occupational activities to another locality or environment

Formal education system: a State Party's education system, including all officially recognized entities with responsibility for education, as well as public and private education institutions at all levels recognized by a State Party's competent authorities and authorized thereby to deliver instruction and other education-related services

Formal learning: learning derived from activities within a structured learning setting, leading to a formal qualification, and provided by an education institution recognized by a State Party's competent authorities and authorized thereby to deliver such learning activities

Higher education: all types of study programmes or sets of courses of study at the post-secondary level which are recognized by the competent authorities of a State Party, or of a constituent unit thereof, as belonging to its higher-education system

Higher-education institution: an establishment providing higher education and recognized by a competent authority of a State Party, or of a constituent unit thereof, as belonging to its higher-education system

Higher-education programme: a post-secondary programme of study recognized by the competent authority of a State Party, or of a constituent unit thereof, as belonging to its higher-education system and the successful completion of which provides the student with a higher-education qualification

Informal learning: learning which occurs outside the formal education system and which results from daily life activities related to work, family, local community, or leisure

International joint degree: a type of cross-border education degree; a single degree recognized and/or authorized and conferred jointly upon completion of an integrated, coordinated and jointly offered programme, by two or more higher education institutions belonging to more than one country

Learning outcomes: a learner's acquired knowledge and skills upon completion of a learning process

Lifelong learning: a process which refers to all learning activities, whether formal, non-formal, or informal, covers the entire lifespan and has the aim of improving and developing human capacities, knowledge, skills, attitudes and competencies

Mobility: the physical or virtual movement of individuals outside their country for the purpose of studying, researching, teaching, or working

Non-formal learning: learning achieved within an education or training framework which places an emphasis on working life and which does not belong to the formal education system

Non-traditional learning modes: formal, non-formal and informal mechanisms for the delivery of educational programmes and learning activities not primarily relying on face-to-face interaction between the educator and the learner

Partial recognition: the partial recognition of a full and completed qualification which cannot be fully recognized on account of the demonstration of substantial differences by a competent recognition authority

Partial studies: any part of a higher-education programme which has been evaluated and, while not a complete programme in itself, represents a significant acquisition of knowledge, skills, attitudes and competencies

Prior learning: the experience, knowledge, skills, attitudes and competencies which an individual has acquired as a result of formal, non-formal, or informal learning, assessed against a given set of learning outcomes, objectives, or standards

Qualification:

- a. Higher-education qualification: any degree, diploma, certificate, or award issued by a competent authority and attesting the successful completion of a higher-education programme or the validation of prior learning, where applicable
- b. Qualification giving access to higher education): any degree, diploma, certificate, or award issued by a competent authority and attesting the successful completion of an education programme or the validation of prior learning, where applicable, and giving the holder of the qualification the right to be considered for admission to higher education

Qualified applicant: an individual who has fulfilled relevant criteria and is considered eligible to apply for admission to higher education

Qualifications framework: a system for the classification, publication and organization of quality-assured qualifications according to a set of criteria

Quality assurance: an ongoing process by which the quality of a higher-education system, institution, or programme is assessed by the competent authority/authorities to assure stakeholders that acceptable educational standards are continuously being maintained and enhanced

Recognition: a formal acknowledgment by a competent recognition authority of the validity and academic level of a foreign education qualification, of partial studies, or of prior learning for the purpose of providing an applicant with outcomes including, but not limited to:

- a. The right to apply for admission to higher education; and/or
- b. The possibility to seek employment opportunities

Region: any one of the areas identified in accordance with the UNESCO definition of regions with a view to the execution by the Organization of regional activities, namely, Africa, Arab States, Asia and the Pacific, Europe, and Latin America and the Caribbean

Regional recognition conventions: the UNESCO conventions on the recognition of qualifications concerning higher education in each of the UNESCO regions, including the Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean

Requirements:

- a. General requirements: conditions which must be fulfilled for access to higher education, or to a given level thereof, or for the obtaining of a higher-education qualification at a given level
- b. Specific requirements: conditions, in addition to the general requirements, which must be fulfilled for admission to a particular higher-education programme, or for the obtaining of a specific higher-education qualification in a particular field of study

Substantial differences: significant differences between the foreign qualification and the qualification of the State Party which would most likely prevent the applicant from succeeding in a desired activity, such as, but not limited to, further study, research activities, or employment opportunities

## **SECTION II. OBJECTIVES OF THE CONVENTION**

### **Article II**

Building on and enhancing the coordination, revisions and achievements of the regional recognition conventions, the objectives of this Convention are to:

1. Promote and strengthen international cooperation in higher education;
2. Support interregional initiatives, policies and innovations for international cooperation in higher education;
3. Facilitate global mobility and the achievement of merit in higher education for the mutual benefit of qualification holders, higher-education institutions, employers, and any other stakeholders of the States Parties to this Convention while understanding and respecting the diversity of the States Parties' higher-education systems;
4. Provide an inclusive global framework for the fair, transparent, consistent, coherent, timely and reliable recognition of qualifications concerning higher education;
5. Respect, uphold and protect the autonomy and diversity of higher-education institutions and systems;

6. Foster trust and confidence in the quality and reliability of qualifications through, inter alia, the promotion of integrity and ethical practices;
7. Promote a culture of quality assurance in higher-education institutions and systems, and develop the capacities necessary for ensuring reliability, consistency and complementarity in quality assurance, in qualifications frameworks and in the recognition of qualifications in order to support international mobility;
8. Promote the development, collection and sharing of accessible, up-to-date, reliable, transparent and relevant information and the dissemination of best practices among stakeholders, States Parties and regions;
9. Promote, through the recognition of qualifications, inclusive and equitable access to quality higher education and support lifelong learning opportunities for all, including refugees and displaced persons;
10. Foster globally the optimal use of human and educational resources with a view to promoting education for sustainable development, and contribute to structural, economic, technological, cultural, democratic and social development for all societies.

### **SECTION III. BASIC PRINCIPLES FOR THE RECOGNITION OF QUALIFICATIONS CONCERNING HIGHER EDUCATION**

#### **Article III**

For the recognition of qualifications concerning higher education, this Convention establishes the following principles:

1. Individuals have the right to have their qualifications assessed for the purpose of applying for admission to higher education studies or seeking employment opportunities.
2. Recognition of qualifications should be transparent, fair, timely and non-discriminatory in accordance with the rules and regulations of each State Party, and should be affordable.
3. Recognition decisions are based on trust, clear criteria, and fair, transparent and non-discriminatory procedures, and underline the fundamental importance of equitable access to higher education as a public good which may lead to employment opportunities.
4. Recognition decisions are based on appropriate, reliable, accessible and up-to-date information on higher-education systems, institutions, programmes and quality assurance mechanisms which has been provided through the competent authorities of the States Parties, official national information centres, or similar entities.
5. Recognition decisions are made with due respect for the diversity of higher-education systems worldwide.
6. Competent recognition authorities undertaking recognition assessments shall do so in good faith, giving clear reasons for decisions, and have mechanisms for appealing recognition decisions.

7. Applicants seeking recognition of their qualifications provide adequate and accurate information and documentation on their achieved qualifications in good faith, and have the right to appeal.

8. States Parties commit to adopting measures to eradicate all forms of fraudulent practices regarding higher education qualifications by encouraging the use of contemporary technologies and networking activities among States Parties.

#### **SECTION IV. OBLIGATIONS OF THE STATES PARTIES TO THE CONVENTION**

This Convention establishes the following obligations for the States Parties:

##### **Article IV. Recognition of Qualifications Giving Access to Higher Education**

1. Each State Party shall recognize, for the purposes of access to its higher-education system, the qualifications and documented or certified prior learning acquired in other States Parties which meet the general requirements for access to higher education in those States Parties, unless substantial differences can be shown between the general requirements for access in the State Party in which the qualification was obtained and those in the State Party in which recognition of the qualification is sought. Alternatively, it shall be sufficient for a State Party to enable the holder of a qualification issued in another State Party to obtain an assessment of that qualification.

2. Qualifications acquired through recognized non-traditional learning modes which are subject to comparable quality assurance mechanisms will be assessed according to the rules and regulations of the State Party, or of the constituent unit thereof, using the same criteria as those applied to similar qualifications acquired through traditional learning modes.

3. Where a qualification gives access only to specific types of institutions or programmes of higher education in the State Party in which the qualification was obtained, each State Party shall grant holders of such qualifications access to similar specific types of institutions or programmes belonging to its higher-education system, if available, unless substantial differences can be shown.

##### **Article V. Recognition of Higher-Education Qualifications**

1. Each State Party shall recognize a higher-education qualification conferred in another State Party, unless substantial differences can be shown between the qualification for which recognition is sought and the corresponding qualification in the State Party in which recognition is sought. Alternatively, it shall be sufficient for a State Party to enable the holder of a higher-education qualification issued in another State Party to obtain an assessment of that qualification, upon the request of the holder.

2. Higher-education qualifications acquired through recognized non-traditional learning modes which are subject to comparable quality assurance mechanisms and which are considered a part of the higher-education system of a State Party will be assessed according to the rules and regulations of the State Party in which recognition is sought, or of the

constituent unit thereof, using the same criteria as those applied to similar qualifications acquired through traditional learning modes.

3. Higher-education qualifications acquired through cross-border education with international joint degrees or through any other joint programme undertaken in more than one country, of which at least one is a State Party to this Convention, shall be assessed according to the rules and regulations of the State Party in which recognition is sought, or of the constituent unit thereof, using the same criteria as those applied to qualifications acquired through programmes undertaken in a single country.

4. Recognition in a State Party of a higher-education qualification issued in another State Party shall have at least one of the following outcomes:

- a. It shall provide the holder with the right to apply for admission to further higher education under the same conditions as those applicable to holders of higher-education qualifications of the State Party in which recognition is sought; and/or
- b. It shall provide the holder with the right to use the title associated with a higher-education qualification in accordance with the laws or regulations of the State Party, or of the constituent unit thereof, in which recognition is sought.

In addition, assessment and recognition may enable qualified applicants to seek employment opportunities subject to the laws and regulations of the State Party, or of the constituent unit thereof, in which recognition is sought.

5. Where a competent recognition authority can demonstrate substantial differences between the qualification for which recognition is sought and the corresponding qualification in the State Party in which recognition is sought, the competent recognition authority shall seek to establish whether partial recognition may be granted.

6. Each State Party may make the recognition of higher-education qualifications acquired through cross-border education or through foreign educational institutions operating in its jurisdiction contingent upon specific requirements of the legislation or regulations of the State Party, or of the constituent unit thereof, or upon specific agreements concluded with the State Party of origin of such institutions.

## **Article VI. Recognition of Partial Studies and Prior Learning**

1. Each State Party may recognize, for the purpose of the completion of a higher-education programme or the continuation of higher education studies, where appropriate, and taking into account the legislation of the States Parties regarding access, documented or certified partial studies or documented or certified prior learning acquired in another State Party, unless substantial differences can be shown between the partial studies or prior learning and the part of the higher-education programme they or it would replace in the State Party in which recognition is sought. Alternatively, it shall be sufficient for a State Party to enable an individual who has undertaken documented or certified partial studies or documented or certified prior learning in another State Party to obtain an assessment of these partial studies or this prior learning, upon the request of the individual concerned.

2. Documented or certified partial completion of higher-education programmes delivered by recognized non-traditional learning modes which are subject to comparable quality assurance mechanisms and which are considered a part of the higher-education system of a State Party

shall be assessed according to the rules and regulations of the State Party, or of the constituent unit thereof, using the same criteria as those applied to partial studies delivered by traditional learning modes.

3. Documented or certified partial completion of higher-education programmes delivered through cross-border education with international joint degrees or any other joint programme undertaken in more than one country, of which at least one is a State Party to this Convention, will be assessed according to the rules and regulations of the State Party, or of the constituent unit thereof, using the same criteria as those applied to partial studies acquired in a single country.

## **Article VII. Recognition of Partial Studies and Qualifications Held by Refugees and Displaced Persons**

Each State Party shall take the necessary and feasible steps, within its education system and in conformity with its constitutional, legislative and regulatory provisions, to develop reasonable procedures for assessing fairly and efficiently whether refugees and displaced persons fulfil the relevant requirements for access to higher education, to further higher-education programmes, or to the seeking of employment opportunities, including in cases where partial studies, prior learning, or qualifications acquired in another country cannot be proven by documentary evidence.

## **Article VIII. Information for Assessment and Recognition**

1. Each State Party shall establish transparent systems for the complete description of the qualifications and learning outcomes obtained in its territory.

2. Each State Party, to the extent feasible based on its constitutional, legislative and regulatory situation and structure, shall put in place an objective and reliable system for the approval, recognition and quality assurance of its higher-education institutions in order to promote confidence and trust in its higher-education system.

3. Each State Party shall establish and maintain a national information centre or similar entities to provide access to relevant, accurate and up-to-date information about its higher-education system.

4. Each State Party shall encourage the use of technologies to ensure easy access to information.

5. Each State Party shall:

- a. Provide access to authoritative and accurate information on its higher-education systems, qualifications, quality assurance, and qualification frameworks, if applicable;
- b. Facilitate the dissemination of and access to accurate information on the other States Parties' higher-education systems, qualifications, and qualifications giving access to higher education;
- c. Give advice and information, where appropriate, on recognition matters, including criteria and procedures for the assessment of qualifications, and the development of materials for good recognition practices in accordance with the laws, regulations and policies of the State Party; and

d. Ensure the provision, within a reasonable time, of adequate information on any institution belonging to its higher-education system, and on any programme operated by such institutions, with a view to enabling the competent authorities of other States Parties to ascertain whether the quality of the qualifications issued by these institutions justifies recognition in the State Party in which recognition is sought.

#### **Article IX. Assessment of an Application**

1. In the first instance, the responsibility for providing adequate information rests with the applicant, who shall provide such information in good faith.
2. Each State Party shall ensure that the institutions belonging to its education system provide to the extent available, upon request, within a reasonable time frame and free of charge, relevant information to the holder of a qualification or to the institution or the competent recognition authorities of the State Party in which recognition is sought.
3. Each State Party shall ensure that the body undertaking assessment for the purposes of recognition demonstrates the reasons for which an application does not fulfil requirements or demonstrates where substantial differences are identified.

#### **Article X. Information on the Competent Recognition Authorities**

1. Each State Party shall provide the depositary of this Convention with official notification of the competent authorities that make decisions on recognition matters in its jurisdiction.
2. Where there are central competent recognition authorities of a State Party, they shall immediately be bound by the provisions of this Convention and shall take the necessary measures to ensure the implementation of the provisions of this Convention in the jurisdiction of said State Party.
3. Where the competence to make decisions on recognition matters lies with the constituent units, the State Party shall furnish the depositary with a brief statement on its constitutional situation or structure at the time of signature or when depositing its instrument of ratification, acceptance, approval, or accession, and on any changes thereafter. In such cases, the competent recognition authorities of the constituent units so designated shall take, to the extent feasible within the State Party's constitutional situation and structure, the necessary measures to ensure the implementation of the provisions of this Convention within the State Party's jurisdiction.
4. Where the competence to make decisions on recognition matters lies with individual higher-education institutions or other entities, each State Party or constituent unit thereof, according to its constitutional situation or structure, shall transmit the text of this Convention to these institutions or entities and shall take all the necessary steps to encourage the favourable consideration and application of its provisions.
5. The provisions of paragraphs 2, 3 and 4 of this Article shall apply, mutatis mutandis, to the obligations of the States Parties under this Convention.

#### **Article XI. Additional Requirements for Admission to Higher-Education Programmes**

1. Where admission to particular higher-education programmes is dependent on the fulfilment of specific requirements in addition to the general requirements for access, the competent authorities of the State Party concerned may impose the same specific requirements on holders of qualifications obtained in other States Parties or assess whether applicants with qualifications obtained in other States Parties fulfil the equivalent requirements.
2. Where qualifications giving access to higher education in one State Party are issued only in combination with additional qualifying examinations as a prerequisite for access, the other States Parties may make access conditional on these requirements or offer an alternative for satisfying such additional requirements within their own education systems.
3. Without prejudice to the provisions of Article IV, admission to a given higher-education institution, or to a given programme within such an institution, may be restricted or selective, according to fair and transparent regulations.
4. With respect to paragraph 3 of the present article, admission procedures shall be designed with a view to ensuring that the assessment of foreign qualifications is carried out according to the principles of transparency, fairness and non-discrimination described in Article III.
5. Without prejudice to the provisions of Article IV, admission to a given higher-education institution may be based on the condition of the demonstration by the qualification holder of sufficient competence in the language or languages of instruction of the institution concerned, or in other specified languages.
6. For the purpose of admission to higher-education programmes, each State Party may make the recognition of qualifications issued by foreign educational institutions operating in its jurisdiction contingent upon specific requirements of the legislation and regulations of the State Party or the constituent unit thereof, or upon specific agreements concluded with the State Party of origin of such institutions.

## **SECTION V. IMPLEMENTATION STRUCTURES AND COOPERATION**

### **Article XII. Implementation Structures**

The States Parties agree to implement this Convention through or in cooperation with:

1. National implementation structures;
2. Networks of national implementation structures;
3. National, regional and global organizations for accreditation, quality assurance, qualification frameworks, and recognition of qualifications;
4. The Intergovernmental Conference of the States Parties;
5. Regional recognition convention committees.

### **Article XIII. National Implementation Structures**

1. In order to facilitate the recognition of higher-education qualifications, the States Parties undertake to implement this Convention through relevant organizations, including national information centres or similar entities.
2. Each State Party will notify the Secretariat of the Intergovernmental Conference of the States Parties of its national implementation structures and of any modification in this regard.
3. National implementation structures should form and actively participate in networks.

#### **Article XIV. Networks of National Implementation Structures**

1. Under the auspices of the Intergovernmental Conference of the States Parties, the networks shall be composed of national implementation structures of the States Parties and shall uphold and assist with the practical implementation of this Convention.
2. The networks shall provide information exchange, capacity building and technical support to the States Parties upon request.
3. The networks shall seek to strengthen the interregional cooperation under this Convention and uphold links to the Intergovernmental Conference of the States Parties.
4. States Parties may participate in existing regional networks established through the regional recognition conventions or create new networks. Participation in existing regional networks shall be subject to the agreement of the relevant regional recognition convention committees.

#### **Article XV. The Intergovernmental Conference of the States Parties**

1. An Intergovernmental Conference of the States Parties, hereinafter referred to as “the Conference”, shall be established.
2. The Conference shall be composed of representatives of all States Parties to this Convention.
3. The States which are not States Parties to this Convention and the heads of the regional recognition convention committees shall be invited to participate in the meetings of the Conference as observers.
4. Representatives of relevant international and regional organizations, as well as representatives of governmental and non-governmental organizations active in the field of recognition of higher-education qualifications, may also be invited to attend meetings of the Conference as observers.
5. The Conference shall meet in ordinary sessions at least every two years. It may meet in extraordinary sessions if it so decides or at the request of at least one third of the States Parties. The Conference shall have an interim work programme concerning activities between sessions. The Conference shall submit a report at each of the ordinary sessions of the General Conference of UNESCO.

6. The Conference shall meet for the first time within two years of the entry into force of this Convention, and at that time it shall adopt its own rules of procedure.
7. The Conference shall promote the application of this Convention and shall oversee its implementation by adopting recommendations, declarations, models of good practices, or any relevant subsidiary text at the global or interregional level.
8. The Conference may adopt operational guidelines for the States Parties to this Convention, in consultation with the regional recognition convention committees.
9. The Conference shall support the follow-up of the activities relating to monitoring by and reporting to UNESCO's governing bodies with regard to the implementation of this Convention.
10. The Conference shall cooperate with the regional recognition convention committees under the auspices of UNESCO.
11. The Conference shall ensure that there is the necessary information exchange between the Conference and the regional recognition convention committees.
12. The Conference shall examine for adoption the draft amendments to this Convention in accordance with Article XXIII. The amendments adopted shall not undermine the principles of transparent, fair, timely and non-discriminatory recognition stated in this Convention.
13. The Secretariat of the Conference shall be provided by the Director-General of UNESCO. The Secretariat shall prepare the documentation of the Conference, draft the agenda of its meetings, and ensure the implementation of its decisions.

### **UNESCO Recommendation on the Recognition of Studies and Qualifications in Higher Education, 1993**

The General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Paris from 25 October to 16 November 1993, at its twenty-seventh session, adopted the [Recommendation on the Recognition of Studies and Qualifications in Higher Education](#). The Recommendation aims to promote academic mobility across regions, improve quality and enhance international cooperation in higher education.

### **UNESCO Recommendation concerning the status of higher-education teaching personnel, 1997**

#### **Preamble**

The General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), meeting in Paris from 21 October to 12 November 1997, at its 29th session, Conscious of the responsibility of states for the provision of education for all in fulfilment of Article 26 of the Universal Declaration of Human Rights (1948),

Recalling in particular the responsibility of the states for the provision of higher education in fulfilment of Article 13, paragraph 1(c), of the International Covenant on Economic, Social and Cultural Rights (1966),

Conscious that higher education and research are instrumental in the pursuit, advancement and transfer of knowledge and constitute an exceptionally rich cultural and scientific asset,

Also conscious that governments and important social groups, such as students, industry and labour, are vitally interested in and benefit from the services and outputs of the higher education systems,

Recognizing the decisive role of higher education teaching personnel in the advancement of higher education, and the importance of their contribution to the development of humanity and modern society,

Convinced that higher-education teaching personnel, like all other citizens, are expected to endeavour to enhance the observance in society of the cultural, economic, social, civil and political rights of all peoples,

Aware of the need to reshape higher education to meet social and economic changes and for higher education teaching personnel to participate in this process,

Expressing concern regarding the vulnerability of the academic community to untoward political pressures which could undermine academic freedom,

Considering that the right to education, teaching and research can only be fully enjoyed in an atmosphere of academic freedom and autonomy for institutions of higher education and that the open communication of findings, hypotheses and opinions lies at the very heart of higher education and provides the strongest guarantee of the accuracy and objectivity of scholarship and research,

Concerned to ensure that higher-education teaching personnel enjoy the status commensurate with this role, Recognizing the diversity of cultures in the world,

Taking into account the great diversity of the laws, regulations, practices and traditions which, in different countries, determine the patterns and organization of higher education,

Mindful of the diversity of arrangements which apply to higher-education teaching personnel in different countries, in particular according to whether the regulations concerning the public service apply to them,

Convinced nevertheless that similar questions arise in all countries with regard to the status of higher education teaching personnel and that these questions call for the adoption of common approaches and so far as practicable the application of common standards which it is the purpose of this Recommendation to set out,

Bearing in mind such instruments as the UNESCO Convention against Discrimination in Education (1960), which recognizes that UNESCO has a duty not only to proscribe any form of discrimination in education, but also to promote equality of opportunity and treatment for all

in education at all levels, including the conditions under which it is given, as well as the Recommendation concerning the Status of Teachers (1966) and the UNESCO Recommendation on the Status of Scientific Researchers (1974), as well as the instruments of the International Labour Organization on freedom of association and the right to organize and to collective bargaining and on equality of opportunity and treatment,

Desiring to complement existing conventions, covenants and recommendations contained in international standards set out in the appendix with provisions relating to problems of particular concern to higher education institutions and their teaching and research personnel,

Adopts the present Recommendation on 11 November 1997

## **I. Definitions**

### **1. For the purpose of this Recommendation:**

- a. "higher education" means programmes of study, training or training for research at the post-secondary level provided by universities or other educational establishments that are approved as institutions of higher education by the competent state authorities, and/or through recognized accreditation systems;
- b. "research", within the context of higher education, means original scientific, technological and engineering, medical, cultural, social and human science or educational research which implies careful, critical, disciplined inquiry, varying in technique and method according to the nature and conditions of the problems identified, directed towards the clarification and/or resolution of the problems, and when within an institutional framework, supported by an appropriate infrastructure;
- c. "scholarship" means the processes by which higher-education teaching personnel keep up to date with their subject, engage in scholarly editing, disseminate their work and improve their pedagogical skills as teachers in their discipline and upgrade their academic credentials;
- d. "extension work" means a service by which the resources of an educational institution are extended beyond its confines to serve a widely diversified community within the state or region regarded as the constituent area of the institution, so long as this work does not contradict the mission of the institution. In teaching it may include a wide range of activities such as extramural, lifelong and distance education delivered through evening classes, short courses, seminars and institutes. In research it may lead to the provision of expertise to the public, private and non-profit sectors, various types of consultation, and participation in applied research and in implementing research results;
- e. "institutions of higher education" means universities, other educational establishments, centres and structures of higher education, and centres of research and culture associated with any of the above, public or private, that are approved as such either through recognized accreditation systems or by the competent state authorities;
- f. "higher-education teaching personnel" means all those persons in institutions or programmes of higher education who are engaged to teach and/or to undertake scholarship and/or to undertake research and/or to provide educational services to students or to the community at large.

## **II. Scope**

2. This Recommendation applies to all higher education teaching personnel.

### **III. Guiding principles**

3. The global objectives of international peace, understanding, co-operation and sustainable development pursued by each Member State and by the United Nations require, *inter alia*, education for peace and in the culture of peace, as defined by UNESCO, as well as qualified and cultivated graduates of higher education institutions, capable of serving the community as responsible citizens and undertaking effective scholarship and advanced research and, as a consequence, a corps of talented and highly qualified higher-education teaching personnel.
4. Institutions of higher education, and more particularly universities, are communities of scholars preserving, disseminating and expressing freely their opinions on traditional knowledge and culture, and pursuing new knowledge without constriction by prescribed doctrines. The pursuit of new knowledge and its application lie at the heart of the mandate of such institutions of higher education. In higher education institutions where original research is not required, higher-education teaching personnel should maintain and develop knowledge of their subject through scholarship and improved pedagogical skills.
5. Advances in higher education, scholarship and research depend largely on infrastructure and resources, both human and material, and on the qualifications and expertise of higher-education teaching personnel as well as on their human, pedagogical and technical qualities, underpinned by academic freedom, professional responsibility, collegiality and institutional autonomy.
6. Teaching in higher education is a profession: it is a form of public service that requires of higher education personnel expert knowledge and specialized skills acquired and maintained through rigorous and lifelong study and research; it also calls for a sense of personal and institutional responsibility for the education and welfare of students and of the community at large and for a commitment to high professional standards in scholarship and research.
7. Working conditions for higher-education teaching personnel should be such as will best promote effective teaching, scholarship, research and extension work and enable higher-education teaching personnel to carry out their professional tasks.
8. Organizations which represent higher-education teaching personnel should be considered and recognized as a force which can contribute greatly to educational advancement and which should, therefore, be involved, together with other stakeholders and interested parties, in the determination of higher education policy.
9. Respect should be shown for the diversity of higher education institution systems in each Member State in accordance with its national laws and practices as well as with international standards.

### **IV. Educational objectives and policies**

10. At all appropriate stages of their national planning in general, and of their planning for higher education in particular, Member States should take all necessary measures to ensure that:
  - a. Higher education is directed to human development and to the progress of society;

- b. Higher education contributes to the achievement of the goals of lifelong learning and to the development of other forms and levels of education;
- c. Where public funds are appropriated for higher education institutions, such funds are treated as a public investment, subject to effective public accountability;
- d. The funding of higher education is treated as a form of public investment the returns on which are, for the most part, necessarily long term, subject to government and public priorities;
- e. The justification for public funding is held constantly before public opinion.

11. Higher-education teaching personnel should have access to libraries which have up-to-date collections reflecting diverse sides of an issue, and whose holdings are not subject to censorship or other forms of intellectual interference. They should also have access, without censorship, to international computer systems, satellite programmes and databases required for their teaching, scholarship or research.

12. The publication and dissemination of the research results obtained by higher-education teaching personnel should be encouraged and facilitated with a view to assisting them to acquire the reputation which they merit, as well as with a view to promoting the advancement of science, technology, education and culture generally. To this end, higher-education teaching personnel should be free to publish the results of research and scholarship in books, journals and databases of their own choice and under their own names, provided they are the authors or co-authors of the above scholarly works. The intellectual property of higher-education teaching personnel should benefit from appropriate legal protection, and in particular the protection afforded by national and international copyright law.

13. The interplay of ideas and information among higher-education teaching personnel throughout the world is vital to the healthy development of higher education and research and should be actively promoted. To this end higher-education teaching personnel should be enabled throughout their careers to participate in international gatherings on higher education or research, to travel abroad without political restrictions and to use the Internet or video-conferencing for these purposes.

14. Programmes providing for the broadest exchange of higher-education teaching personnel between institutions, both nationally and internationally, including the organization of symposia, seminars and collaborative projects, and the exchange of educational and scholarly information should be developed and encouraged. The extension of communications and direct contacts between universities, research institutions and associations as well as among scientists and research workers should be facilitated, as should access by higher education teaching personnel from other states to open information material in public archives, libraries, research institutes and similar bodies.

15. Member States and higher education institutions should, nevertheless, be conscious of the exodus of higher-education teaching personnel from the developing countries and, in particular, the least developed ones. They should, therefore, encourage aid programmes to the developing countries to help sustain an academic environment which offers satisfactory conditions of work for higher-education teaching personnel in those countries, so that this exodus may be contained and ultimately reversed.

16. Fair, just and reasonable national policies and practices for the recognition of degrees and of credentials for the practice of the higher education profession from other states should be established that are consistent with the UNESCO Recommendation on the Recognition of Studies and Qualifications in Higher Education of 1993.

## **V. Institutional rights, duties and responsibilities**

### **A. Institutional autonomy**

17. The proper enjoyment of academic freedom and compliance with the duties and responsibilities listed below require the autonomy of institutions of higher education. Autonomy is that degree of self-governance necessary for effective decision making by institutions of higher education regarding their academic work, standards, management and related activities consistent with systems of public accountability, especially in respect of funding provided by the state, and respect for academic freedom and human rights. However, the nature of institutional autonomy may differ according to the type of establishment involved.

18. Autonomy is the institutional form of academic freedom and a necessary precondition to guarantee the proper fulfilment of the functions entrusted to higher-education teaching personnel and institutions.

19. Member States are under an obligation to protect higher education institutions from threats to their autonomy coming from any source.

20. Autonomy should not be used by higher education institutions as a pretext to limit the rights of higher-education teaching personnel provided for in this Recommendation or in other international standards set out in the appendix.

21. Self-governance, collegiality and appropriate academic leadership are essential components of meaningful autonomy for institutions of higher education.

### **B. Institutional accountability**

22. In view of the substantial financial investments made, Member States and higher education institutions should ensure a proper balance between the level of autonomy enjoyed by higher education institutions and their systems of accountability. Higher education institutions should endeavour to open their governance in order to be accountable. They should be accountable for:

- a. effective communication to the public concerning the nature of their educational mission;
- b. a commitment to quality and excellence in their teaching, scholarship and research functions, and an obligation to protect and ensure the integrity of their teaching, scholarship and research against intrusions inconsistent with their academic missions;
- c. effective support of academic freedom and fundamental human rights;
- d. ensuring high quality education for as many academically qualified individuals as possible subject to the constraints of the resources available to them;
- e. a commitment to the provision of opportunities for lifelong learning, consistent with the mission of the institution and the resources provided;
- f. ensuring that students are treated fairly and justly, and without discrimination;

- g. adopting policies and procedures to ensure the equitable treatment of women and minorities and to eliminate sexual and racial harassment;
- h. ensuring that higher education personnel are not impeded in their work in the classroom or in their research capacity by violence, intimidation or harassment;
- i. honest and open accounting;
- j. efficient use of resources;
- k. the creation, through the collegial process and/or through negotiation with organizations representing higher-education teaching personnel, consistent with the principles of academic freedom and freedom of speech, of statements or codes of ethics to guide higher education personnel in their teaching, scholarship, research and extension work;
- l. assistance in the fulfilment of economic, social, cultural and political rights while striving to prevent the use of knowledge, science and technology to the detriment of those rights, or for purposes which run counter to generally accepted academic ethics, human rights and peace;
- m. ensuring that they address themselves to the contemporary problems facing society; to this end, their curricula, as well as their activities, should respond, where appropriate, to the current and future needs of the local community and of society at large, and they should play an important role in enhancing the labour market opportunities of their graduates;
- n. encouraging, where possible and appropriate, international academic cooperation which transcends national, regional, political, ethnic and other barriers, striving to prevent the scientific and technological exploitation of one state by another, and promoting equal partnership of all the academic communities of the world in the pursuit and use of knowledge and the preservation of cultural heritages;
- o. ensuring up-to-date libraries and access, without censorship, to modern teaching, research and information resources providing information required by higher-education teaching personnel or by students for teaching, scholarship or research;
- p. ensuring the facilities and equipment necessary for the mission of the institution and their proper upkeep;
- q. ensuring that when engaged in classified research it will not contradict the educational mission and objectives of the institutions and will not run counter to the general objectives of peace, human rights, sustainable development and environment.

23. Systems of institutional accountability should be based on a scientific methodology and be clear, realistic, cost-effective and simple. In their operation they should be fair, just and equitable. Both the methodology and the results should be open.

24. Higher education institutions, individually or collectively, should design and implement appropriate systems of accountability, including quality assurance mechanisms to achieve the above goals, without harming institutional autonomy or academic freedom. The organizations representing higher-education teaching personnel should participate, where possible, in the planning of such systems. Where state mandated structures of accountability are established, their procedures should be negotiated, where applicable, with the institutions of higher education concerned and with the organizations representing higher-education teaching personnel.

## **VI. Rights and freedoms of higher-education teaching personnel**

A. Individual rights and freedoms: civil rights, academic freedom, publication rights, and the international exchange of information

25. Access to the higher education academic profession should be based solely on appropriate academic qualifications, competence and experience and be equal for all members of society without any discrimination.

26. Higher-education teaching personnel, like all other groups and individuals, should enjoy those internationally recognized civil, political, social and cultural rights applicable to all citizens. Therefore, all higher-education teaching personnel should enjoy freedom of thought, conscience, religion, expression, assembly and association as well as the right to liberty and security of the person and liberty of movement. They should not be hindered or impeded in exercising their civil rights as citizens, including the right to contribute to social change through freely expressing their opinion of state policies and of policies affecting higher education. They should not suffer any penalties simply because of the exercise of such rights. Higher-education teaching personnel should not be subject to arbitrary arrest or detention, nor to torture, nor to cruel, inhuman or degrading treatment. In cases of gross violation of their rights, higher-education teaching personnel should have the right to appeal to the relevant national, regional or international bodies such as the agencies of the United Nations, and organizations representing higher-education teaching personnel should extend full support in such cases.

27. The maintaining of the above international standards should be upheld in the interest of higher education internationally and within the country. To do so, the principle of academic freedom should be scrupulously observed. Higher-education teaching personnel are entitled to the maintaining of academic freedom, that is to say, the right, without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies. All higher-education teaching personnel should have the right to fulfil their functions without discrimination of any kind and without fear of repression by the state or any other source. Higher-education teaching personnel can effectively do justice to this principle if the environment in which they operate is conducive, which requires a democratic atmosphere; hence the challenge for all of developing a democratic society.

28. Higher-education teaching personnel have the right to teach without any interference, subject to accepted professional principles including professional responsibility and intellectual rigour with regard to standards and methods of teaching. Higher-education teaching personnel should not be forced to instruct against their own best knowledge and conscience or be forced to use curricula and methods contrary to national and international human rights standards. Higher education teaching personnel should play a significant role in determining the curriculum.

29. Higher-education teaching personnel have a right to carry out research work without any interference, or any suppression, in accordance with their professional responsibility and subject to nationally and internationally recognized professional principles of intellectual rigour, scientific inquiry and research ethics. They should also have the right to publish and communicate the conclusions of the research of which they are authors or co-authors, as stated in paragraph 12 of this Recommendation.

30. Higher-education teaching personnel have a right to undertake professional activities outside of their employment, particularly those that enhance their professional skills or allow for the application of knowledge to the problems of the community, provided such activities do not interfere with their primary commitments to their home institutions in accordance with institutional policies and regulations or national laws and practice where they exist.

**B. Self-governance and collegiality**

31. Higher-education teaching personnel should have the right and opportunity, without discrimination of any kind, according to their abilities, to take part in the governing bodies and to criticize the functioning of higher education institutions, including their own, while respecting the right of other sections of the academic community to participate, and they should also have the right to elect a majority of representatives to academic bodies within the higher education institution.

32. The principles of collegiality include academic freedom, shared responsibility, the policy of participation of all concerned in internal decision making structures and practices, and the development of consultative mechanisms. Collegial decision-making should encompass decisions regarding the administration and determination of policies of higher education, curricula, research, extension work, the allocation of resources and other related activities, in order to improve academic excellence and quality for the benefit of society at large.

**VII. Duties and responsibilities of higher education teaching personnel**

33. Higher-education teaching personnel should recognize that the exercise of rights carries with it special duties and responsibilities, including the obligation to respect the academic freedom of other members of the academic community and to ensure the fair discussion of contrary views. Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research on an honest search for truth. Teaching, research and scholarship should be conducted in full accordance with ethical and professional standards and should, where appropriate, respond to contemporary problems facing society as well as preserve the historical and cultural heritage of the world.

34. In particular, the individual duties of higher education teaching personnel inherent in their academic freedom are:

- a. to teach students effectively within the means provided by the institution and the state, to be fair and equitable to male and female students and treat those of all races and religions, as well as those with disabilities, equally, to encourage the free exchange of ideas between themselves and their students, and to be available to them for guidance in their studies. Higher-education teaching personnel should ensure, where necessary, that the minimum content defined in the syllabus for each subject is covered;
- b. to conduct scholarly research and to disseminate the results of such research or, where original research is not required, to maintain and develop their knowledge of their subject through study and research, and through the development of teaching methodology to improve their pedagogical skills;
- c. to base their research and scholarship on an honest search for knowledge with due respect for evidence, impartial reasoning and honesty in reporting;

- d. to observe the ethics of research involving humans, animals, the heritage or the environment;
- e. to respect and to acknowledge the scholarly work of academic colleagues and students and, in particular, to ensure that authorship of published works includes all who have materially contributed to, and share responsibility for, the contents of a publication;
- f. to refrain from using new information, concepts or data that were originally obtained as a result of access to confidential manuscripts or applications for funds for research or training that may have been seen as the result of processes such as peer review, unless the author has given permission;
- g. to ensure that research is conducted according to the laws and regulations of the state in which the research is carried out, that it does not violate international codes of human rights, and that the results of the research and the data on which it is based are effectively made available to scholars and researchers in the host institution, except where this might place respondents in peril or where anonymity has been guaranteed;
- h. to avoid conflicts of interest and to resolve them through appropriate disclosure and full consultation with the higher education institution employing them, so that they have the approval of the aforesaid institution;
- i. to handle honestly all funds entrusted to their care for higher education institutions for research or for other professional or scientific bodies;
- j. to be fair and impartial when presenting a professional appraisal of academic colleagues and students;
- k. to be conscious of a responsibility, when speaking or writing outside scholarly channels on matters which are not related to their professional expertise, to avoid misleading the public on the nature of their professional expertise;
- l. to undertake such appropriate duties as are required for the collegial governance of institutions of higher education and of professional bodies.

35. Higher-education teaching personnel should seek to achieve the highest possible standards in their professional work, since their status largely depends on themselves and the quality of their achievements.

36. Higher-education teaching personnel should contribute to the public accountability of higher education institutions without, however, forfeiting the degree of institutional autonomy necessary for their work, for their professional freedom and for the advancement of knowledge.

### **VIII. Preparation for the profession**

37. Policies governing access to preparation for a career in higher education rest on the need to provide society with an adequate supply of higher-education teaching personnel who possess the necessary ethical, intellectual and teaching qualities and who have the required professional knowledge and skills.

38. All aspects of the preparation of higher-education teaching personnel should be free from any form of discrimination.

39. Amongst candidates seeking to prepare for a career in higher education, women and members of minorities with equal academic qualifications and experience should be given equal opportunities and treatment.

## **IX. Terms and conditions of employment**

### **A. Entry into the academic profession**

40. The employers of higher-education teaching personnel should establish such terms and conditions of employment as will be most conducive for effective teaching and/or research and/or scholarship and/or extension work and will be fair and free from discrimination of any kind.

41. Temporary measures aimed at accelerating de facto equality for disadvantaged members of the academic community should not be considered discriminatory, provided that these measures are discontinued when the objectives of equality of opportunity and treatment have been achieved and systems are in place to ensure the continuance of equality of opportunity and treatment.

42. A probationary period on initial entry to teaching and research in higher education is recognized as the opportunity for the encouragement and helpful initiation of the entrant and for the establishment and maintenance of proper professional standards, as well as for the individual's own development of his/her teaching and research proficiency. The normal duration of probation should be known in advance and the conditions for its satisfactory completion should be strictly related to professional competence. If such candidates fail to complete their probation satisfactorily, they should have the right to know the reasons and to receive this information sufficiently in advance of the end of the probationary period to give them a reasonable opportunity to improve their performance. They should also have the right to appeal.

43. Higher-education teaching personnel should enjoy:

- a. a just and open system of career development including fair procedures for appointment, tenure where applicable, promotion, dismissal, and other related matters;
- b. an effective, fair and just system of labour relations within the institution, consistent with the international standards set out in the appendix.

44. There should be provisions to allow for solidarity with other institutions of higher education and with their higher-education teaching personnel when they are subject to persecution. Such solidarity may be material as well as moral and should, where possible, include refuge and employment or education for victims of persecution.

### **B. Security of employment**

45. Tenure or its functional equivalent, where applicable, constitutes one of the major procedural safeguards of academic freedom and against arbitrary decisions. It also encourages individual responsibility and the retention of talented higher-education teaching personnel.

46. Security of employment in the profession, including tenure or its functional equivalent, where applicable, should be safeguarded as it is essential to the interests of higher education as well as those of higher-education teaching personnel. It ensures that higher-education teaching personnel who secure continuing employment following rigorous evaluation can only be dismissed on professional grounds and in accordance with due process. They may also be released for bona fide financial reasons, provided that all the financial accounts are open to

public inspection, that the institution has taken all reasonable alternative steps to prevent termination of employment, and that there are legal safeguards against bias in any termination of employment procedure. Tenure or its functional equivalent, where applicable, should be safeguarded as far as possible even when changes in the organization of or within a higher education institution or system are made, and should be granted, after a reasonable period of probation, to those who meet stated objective criteria in teaching, and/or scholarship, and/or research to the satisfaction of an academic body, and/or extension work to the satisfaction of the institution of higher education.

#### C. Appraisal

47. Higher education institutions should ensure that:

- a. evaluation and assessment of the work of higher-education teaching personnel are an integral part of the teaching, learning and research process, and that their major function is the development of individuals in accordance with their interests and capacities;
- b. evaluation is based only on academic criteria of competence in research, teaching and other academic or professional duties as interpreted by academic peers;
- c. evaluation procedures take due account of the difficulty inherent in measuring personal capacity, which seldom manifests itself in a constant and unfluctuating manner;
- d. where evaluation involves any kind of direct assessment of the work of higher-education teaching personnel, by students and/or fellow colleagues and/or administrators, such assessment is objective and the criteria and the results are made known to the individual(s) concerned;
- e. the results of appraisal of higher-education teaching personnel are also taken into account when establishing the staffing of the institution and considering the renewal of employment;
- f. higher-education teaching personnel have the right to appeal to an impartial body against assessments which they deem to be unjustified.

#### D. Discipline and dismissal

48. No member of the academic community should be subject to discipline, including dismissal, except for just and sufficient cause demonstrable before an independent third-party hearing of peers, and/or before an impartial body such as arbitrators or the courts.

49. All members of higher-education teaching personnel should enjoy equitable safeguards at each stage of any disciplinary procedure, including dismissal, in accordance with the international standards set out in the appendix.

50. Dismissal as a disciplinary measure should only be for just and sufficient cause related to professional conduct, for example: persistent neglect of duties, gross incompetence, fabrication or falsification of research results, serious financial irregularities, sexual or other misconduct with students, colleagues, or other members of the academic community or serious threats thereof, or corruption of the educational process such as by falsifying grades, diplomas or degrees in return for money, sexual or other favours or by demanding sexual, financial or other material favours from subordinate employees or colleagues in return for continuing employment.

51. Individuals should have the right to appeal against the decision to dismiss them before independent, external bodies such as arbitrators or the courts, with final and binding powers.

#### E. Negotiation of terms and conditions of employment

52. Higher-education teaching personnel should enjoy the right to freedom of association, and this right should be effectively promoted. Collective bargaining or an equivalent procedure should be promoted in accordance with the standards of the International Labour Organization (ILO) set out in the appendix.

53. Salaries, working conditions and all matters related to the terms and conditions of employment of higher-education teaching personnel should be determined through a voluntary process of negotiation between organizations representing higher-education teaching personnel and the employers of higher education teaching personnel, except where other equivalent procedures are provided that are consistent with international standards.

54. Appropriate machinery, consistent with national laws and international standards, should be established by statute or by agreement whereby the right of higher-education teaching personnel to negotiate through their organizations with their employers, whether public or private, is assured. Such legal and statutory rights should be enforceable through an impartial process without undue delay.

55. If the process established for these purposes is exhausted or if there is a breakdown in negotiations between the parties, organizations of higher-education teaching personnel should have the right to take such other steps as are normally open to other organizations in the defence of their legitimate interests.

56. Higher-education teaching personnel should have access to a fair grievance and arbitration procedure, or the equivalent, for the settlement of disputes with their employers arising out of terms and conditions of employment.

#### F. Salaries, workload, social security benefits, health and safety

57. All financially feasible measures should be taken to provide higher-education teaching personnel with remuneration such that they can devote themselves satisfactorily to their duties and allocate the necessary amount of time for the continuing training and periodic renewal of knowledge and skills that are essential at this level of teaching.

58. The salaries of higher-education teaching personnel should:

- a. reflect the importance to society of higher education and hence the importance of higher-education teaching personnel as well as the different responsibilities which fall to them from the time of their entry into the profession;
- b. be at least comparable to salaries paid in other occupations requiring similar or equivalent qualifications;
- c. provide higher-education teaching personnel with the means to ensure a reasonable standard of living for themselves and their families, as well as to invest in further education or in the pursuit of cultural or scientific activities, thus enhancing their professional qualifications;

- d. take account of the fact that certain posts require higher qualifications and experience and carry greater responsibilities;
- e. be paid regularly and on time;
- f. be reviewed periodically to take into account such factors as a rise in the cost of living, increased productivity leading to higher standards of living, or a general upward movement in wage or salary levels.

59. Salary differentials should be based on objective criteria.

60. Higher-education teaching personnel should be paid on the basis of salary scales established in agreement with organizations representing higher-education teaching personnel, except where other equivalent procedures consistent with international standards are provided. During a probationary period or if employed on a temporary basis qualified higher-education teaching personnel should not be paid on a lower scale than that laid down for established higher education teaching personnel at the same level.

61. A fair and impartial merit-rating system could be a means of enhancing quality assurance and quality control. Where introduced and applied for purposes of salary determination it should involve prior consultation with organizations representing higher-education teaching personnel.

62. The workload of higher-education teaching personnel should be fair and equitable, should permit such personnel to carry out effectively their duties and responsibilities to their students as well as their obligations in regard to scholarship, research and/or academic administration, should provide due consideration in terms of salary for those who are required to teach beyond their regular workload, and should be negotiated with the organizations representing higher-education teaching personnel, except where other equivalent procedures consistent with international standards are provided.

63. Higher-education teaching personnel should be provided with a work environment that does not have a negative impact on or affect their health and safety and they should be protected by social security measures, including those concerning sickness and disability and pension entitlements, and measures for the protection of health and safety in respect of all contingencies included in the conventions and recommendations of ILO. The standards should be at least as favourable as those set out in the relevant conventions and recommendations of ILO. Social security benefits for higher-education teaching personnel should be granted as a matter of right.

64. The pension rights earned by higher-education teaching personnel should be transferable nationally and internationally, subject to national, bilateral and multilateral taxation laws and agreements, should the individual transfer to employment with another institution of higher education. Organizations representing higher education teaching personnel should have the right to choose representatives to take part in the governance and administration of pension plans designed for higher-education teaching personnel where applicable, particularly those which are private and contributory.

#### G. Study and research leave and annual holidays

65. Higher-education teaching personnel should be granted study and research leave, such as sabbatical leave, on full or partial pay, where applicable, at regular intervals.

66. The period of study or research leave should be counted as service for seniority and pension purposes, subject to the provisions of the pension plan.

67. Higher-education teaching personnel should be granted occasional leave with full or partial pay to enable them to participate in professional activities.

68. Leave granted to higher-education teaching personnel within the framework of bilateral and multilateral cultural and scientific exchanges or technical assistance programmes abroad should be considered as service, and their seniority and eligibility for promotion and pension rights in their home institutions should be safeguarded. In addition, special arrangements should be made to cover their extra expenses.

69. Higher-education teaching personnel should enjoy the right to adequate annual vacation with full pay.

#### **H. Terms and conditions of employment of women higher-education teaching personnel**

70. All necessary measures should be taken to promote equality of opportunity and treatment of women higher-education teaching personnel in order to ensure, on the basis of equality between men and women, the rights recognized by the international standards set out in the appendix.

#### **I. Terms and conditions of employment of disabled higher-education teaching personnel**

71. All necessary measures should be taken to ensure that the standards set with regard to the conditions of work of higher-education teaching personnel who are disabled are, as a minimum, consistent with the relevant provisions of the international standards set out in the appendix.

#### **J. Terms and conditions of employment of part-time higher-education teaching personnel**

72. The value of the service provided by qualified part-time higher-education teaching personnel should be recognized. Higher-education teaching personnel employed regularly on a part-time basis should:

- a. receive proportionately the same remuneration as higher-education teaching personnel employed on a full-time basis and enjoy equivalent basic conditions of employment;
- b. benefit from conditions equivalent to those of higher-education teaching personnel employed on a full-time basis as regards holidays with pay, sick leave and maternity leave; the relevant pecuniary entitlements should be determined in proportion to hours of work or earnings;
- c. be entitled to adequate and appropriate social security protection, including, where applicable, coverage under employers' pension schemes.

#### **X. Utilization and implementation**

73. Member States and higher education institutions should take all feasible steps to extend and complement their own action in respect of the status of higher-education teaching personnel by encouraging co-operation with and among all national and international governmental and nongovernmental organizations whose activities fall within the scope and objectives of this Recommendation.

74. Member States and higher education institutions should take all feasible steps to apply the provisions spelled out above to give effect, within their respective territories, to the principles set forth in this Recommendation.

75. The Director-General will prepare a comprehensive report on the world situation with regard to academic freedom and to respect for the human rights of higher-education teaching personnel on the basis of the information supplied by Member States and of any other information supported by reliable evidence which he/she may have gathered by such methods as he/she may deem appropriate.

76. In the case of a higher education institution in the territory of a state not under the direct or indirect authority of that state but under separate and independent authorities, the relevant authorities should transmit the text of this Recommendation to institutions, so that such institutions can put its provisions into practice.

## **XI. Final provision**

77. Where higher-education teaching personnel enjoy a status which is, in certain respects, more favourable than that provided for in this Recommendation, the terms of this Recommendation should not be invoked to diminish the status already recognized.

## **Regional Frameworks**

### **Charter of the Organisation of American States, 1948**

#### **Article 49**

The Member States will exert the greatest efforts, in accordance with their constitutional processes, to ensure the effective exercise of the right to education, on the following bases:

- a. Elementary education, compulsory for children of school age, shall also be offered to all others who can benefit from it. When provided by the State it shall be without charge;
- b. Middle-level education shall be extended progressively to as much of the population as possible, with a view to social improvement. It shall be diversified in such a way

that it meets the development needs of each country without prejudice to providing a general education; and

- c. Higher education shall be available to all, provided that, in order to maintain its high level, the corresponding regulatory or academic standards are met.

### **Additional Protocol to the American Convention on Human Rights, Protocol of San Salvador, 1998**

#### **Article 13: Right to Education**

1. Everyone has the right to education.
2. The States Parties to this Protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.
3. The States Parties to this Protocol recognize that in order to achieve the full exercise of the right to education:
  - a. Primary education should be compulsory and accessible to all without cost;
  - b. Secondary education in its different forms, including technical and vocational secondary education, should be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;
  - c. Higher education should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education;
  - d. Basic education should be encouraged or intensified as far as possible for those persons who have not received or completed the whole cycle of primary instruction;
  - e. Programs of special education should be established for the handicapped, so as to provide special instruction and training to persons with physical disabilities or mental deficiencies.

#### **Article 16: Rights of Children**

Every child, whatever his parentage, has the right to the protection that his status as a minor requires from his family, society and the State. Every child has the right to grow under the protection and responsibility of his parents; save in exceptional, judicially-recognized circumstances, a child of young age ought not to be separated from his mother. Every child

has the right to free and compulsory education, at least in the elementary phase, and to continue his training at higher levels of the educational system.

### **African Charter on the Rights and Welfare of the Child, 1990**

#### **Article 11 : Education**

3. State Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular:

- a. provide free and compulsory basic education;
- b. encourage the development of secondary education in its different forms and progressively make it free and accessible to all;
- c. make higher education accessible to all on the basis of capacity and ability by every appropriate means;

### **African Youth Charter, 2006**

#### **Article 11 : youth participation**

2. States Parties shall take the following measures to promote active youth participation in society:

- f. Institute measures to professionalize youth work and introduce relevant training programmes in higher education and other such training institutions;

#### **Article 13 : Education and Skills Development**

4. States Parties shall take all appropriate measures with a view to achieving full realisation of this right and shall, in particular :

- f. Make higher education equally accessible to all including establishing distance learning centres of excellence;
1. Introduce scholarship and bursary programmes to encourage entry into post-primary school education and into higher education outstanding youth from disadvantaged communities, especially young girls;

### **European Charter for Regional or Minority Languages, 1992**

#### **Article 8 – Education (1)(a)**

- e.

- i. to make available university and other higher education in regional or minority languages;
- ii. to provide facilities for the study of these languages as university and higher education subjects; or
- iii. if, by reason of the role of the State in relation to higher education institutions, subparagraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;

### European Convention on the Legal Status of Migrant Workers, 1977

#### Article 14: Pretraining - Schooling - Linguistic training - Vocational training and retraining

1. Migrant workers and members of their families officially admitted to the territory of a Contracting Party shall be entitled, on the same basis and under the same conditions as national workers, to general education and vocation training and retraining and shall be granted access to higher education according to the general regulations governing admission to respective institutions in the receiving State.

### Revised European Social Charter, 1996

#### Article 10 : The Right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;

### Regional Conventions on the Recognition of Qualifications, Studies, Diplomas and Degrees in Higher Education

Several Regional Instruments promote the right to recognition of higher education qualifications across borders. Those conventions aim to reduce the obstacles faced by students, teachers, researchers and job-seekers outside their countries of origin in terms of the recognition of their higher education qualifications, to promote academic mobility across regions, improve quality and enhance international cooperation in higher education.

- [Convention on the Recognition of Qualifications concerning Higher Education in the European Region, 1997\\*](#)
- [Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab States, 1978\\*](#)

- [Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education, 2011\\*](#)
- [Latin America and the Caribbean Revised Regional Recognition Convention, 2019\\*](#)
- [Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States Bordering on the Mediterranean 1976\\*](#)

### ASEAN Human Rights Declaration, 2012

#### Article 31:

1. Every Person has the right to education
2. Primary education shall be compulsory and made available free to all. Secondary education in its different forms shall be available and accessible to all through every appropriate means. Technical and vocational education shall be made generally available. Higher education shall be equally accessible to all on the basis of merit.

### Council of Europe Recommendation on the public responsibility for higher education and research, 2007

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity among its members and that this aim can be pursued notably by common action in educational and cultural matters;

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and to the Universal Declaration of Human Rights (1948);

Having regard to the European Cultural Convention of 1954 (ETS No. 18);

Having regard to the Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165; Lisbon Recognition Convention);

Having regard to the subsidiary texts to the Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region adopted by the Committee of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region:

- the Recommendation on international access qualifications (1999);
- the Recommendation on the criteria and procedures for the assessment of foreign qualifications (2001);
- the Code of good practice in the provision of transnational education (2001);
- the Recommendation on the recognition of joint degrees (2004);

Having regard to the Sorbonne Declaration adopted in Paris on 25 May 1998 by the Ministers of Education of France, Germany, Italy and the United Kingdom, to the Joint Declaration of the European Ministers for Education signed in Bologna on 19 June 1999 and to the communiqués adopted at their meetings in Prague on 19 May 2001, in Berlin on 19 September 2003 and Bergen on 20 May 2005 aiming to establish a European Higher Education Area;

Having regard to the UNESCO World Declaration on Higher Education for the 21st century: Vision and Action (1998);

Having regard to Recommendation Rec(2002)6 of the Committee of Ministers to member states on higher education policies in lifelong learning;

Having regard to Recommendation Rec(2000)24 of the Committee of Ministers to member states on the development of European studies for democratic citizenship;

Having regard to Recommendation No. R (2000) 12 of the Committee of Ministers to member states on the social sciences and the challenge of transition;

Having regard to Recommendation Rec(2005)13 of the Committee of Ministers to member states on the governance and management of university heritage;

Having regard to Recommendation No. R (2000) 8 of the Committee of Ministers to member states on the research mission of universities;

Having regard to Recommendation No. R (98) 3 of the Committee of Ministers to member states on access to higher education;

Mindful of the outcomes and recommendations of the European Year of Citizenship through Education (2005);

Considering that higher education is essential to European society, and that it fulfils the multiple concomitant purposes of preparation for the labour market, preparation for life as active citizens in democratic societies, personal development and the development and maintenance, through teaching, learning and research, of an advanced, comprehensive and diverse knowledge base;

Considering that higher education plays a key role in developing and maintaining democratic culture, without which democratic societies cannot function;

Considering that effective equal opportunities to higher education contribute to social cohesion and thus to the sustainable development of European societies;

Considering, therefore, that higher education and research is a public responsibility;

Further considering that public authorities must exercise their responsibility with a view to adapting it to the requirements of modern, complex societies,

1. Recommends that the governments of member states:

1. take steps to implement in their policy, law and practice the principles set out in the appendix to this recommendation;
2. promote the implementation of the principles and measures contained in the appendix where this is not the direct responsibility of governments;
3. promote the implementation of these measures by higher education institutions

4. ensure that this recommendation is distributed as widely as possible among all persons and bodies concerned;
2. Instructs the Secretary General of the Council of Europe to transmit this recommendation to the governments of those states parties to the European Cultural Convention which are not members of the Council of Europe.

## Scope

1. The present recommendation addresses the public responsibility for higher education and research, which is an integral part of the academic heritage of Europe and a cornerstone of the efforts to establish a European Higher Education Area by 2010. It also addresses the close link between the European Higher Education Area and the European Research Area. It recognises that for this public responsibility to remain a living reality, it must be adapted to the requirements of modern, complex societies.
2. The public responsibility for higher education and research is complemented by the public responsibility of higher education and research, exercised by its institutions, bodies, students and staff. While recognising the dual implication of public responsibility, as well as the importance of the policies and activities within higher education and research institutions, the present recommendation focuses on the responsibilities of public authorities.
3. Public responsibility should be exercised with due regard for the need of higher education and research institutions and systems, as well as their staff and students, to act freely and efficiently in the pursuit of their mission. Public authorities therefore have a responsibility to promote autonomy for higher education and research institutions as well as academic freedom for individual members of the academic community.
4. “Public responsibility” is to be understood as the responsibility of public authorities. Public responsibility for higher education and research can be exercised in different ways and at different levels (national, regional, local or combinations of these) in different countries. A “public authority” is understood to be any body, organ, entity or other organisation, at any level, empowered to supervise, oversee or make decisions, representing or acting on behalf of the population of the territory concerned, irrespective of its legal status under public or private law. Public authorities may be competent at local, regional or national level, in accordance with the constitutional arrangements of the country concerned.

## Responsibility for the multiple purposes of higher education and research

5. In keeping with the values of democratic and equitable societies, public authorities should ensure that higher education institutions, while exercising their autonomy, can meet society’s multiple expectations and fulfil their various and equally important objectives, which include:

- preparation for sustainable employment;
- preparation for life as active citizens in democratic societies;
- personal development;
- the development and maintenance, through teaching, learning and research, of a broad, advanced knowledge base.

6. Public authorities should also ensure appropriate conditions for higher education and research institutions to fulfil their function as a service to society.

### **Main categories of public responsibility for higher education and research**

7. The responsibility of public authorities for higher education and research should be nuanced and defined relative to specific areas. It is broadly recommended that public authorities have:

- exclusive responsibility for the framework within which higher education and research is conducted;
- leading responsibility for ensuring effective equal opportunities to higher education for all citizens, as well as ensuring that basic research remains a public good;
- substantial responsibility for financing higher education and research, the provision of higher education and research, as well as for stimulating and facilitating financing and provision by other sources within the framework developed by public authorities.

8. In exercising their responsibility, public authorities should take due account of internationally accepted standards and developments, in particular those that follow from the Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region and other international treaties, as well as of standards and developments in the context of the European Higher Education Area.

### **Responsibility for the framework of higher education and research**

9. Public authorities should assume exclusive responsibility for the framework within which higher education and research are conducted. This should include responsibility for:

- the legal framework;
- the degree structure or qualifications framework of the higher education system;
- the framework for quality assurance;
- the framework for the recognition of foreign qualifications;
- the framework for information on higher education provision.

10. In elaborating or amending the legal framework, in accordance with the constitution and the legislative practice of each country, public authorities should consult with higher education institutions and their organisations, research institutes and bodies, organisations of students and staff and other relevant stakeholders.

11. Public authorities should determine the degree structure or qualifications framework of the higher education system for which they are responsible in accordance with international standards, and in particular those of the European Higher Education Area. Public recognition and funding of higher education institutions and programmes could be made conditional on their compliance with national qualifications frameworks.

12. The importance of quality assurance, which is a joint responsibility of public authorities and higher education institutions, grows with increasing degrees of institutional autonomy. Public authorities should establish, as an essential regulatory mechanism in diversified higher education systems, cost-effective quality assessment mechanisms that are built on trust, give

due regard to internal quality development processes, allow for independent decision making, and abide by agreed-upon principles.

13. While avoiding burdensome administrative arrangements and seeking greater transparency, public authorities should set the requirements for the provision of accurate, objective and up-to-date information on higher education options, including on transnational education providers. Such information should correspond to the needs of learners and other stakeholders, including those seeking a certain degree of mobility, enabling and empowering each to make informed choices at all stages, from entering into higher education, to first employment.

### **Responsibility for ensuring equal opportunities in higher education**

14. Public authorities should assume leading responsibility for ensuring that all qualified candidates enjoy effective equal opportunities to undertake and complete higher education, irrespective of their social and economic background. In particular, public authorities should endeavour to establish effective opportunities for members of underprivileged and underrepresented groups to access and complete higher education to the full extent of their aspirations and abilities. Equal opportunities should extend to all aspects of higher education, including internationalisation, for example through academic mobility of students and staff.

### **Responsibility for research**

15. Public authorities should endeavour to ensure that basic research remains a public good, *inter alia* through providing adequate funding of basic research, by elaborating and overseeing the implementation of codes of ethical behaviour in research and by seeking to prevent the misuse of research results. Public authorities should further endeavour to ensure wide public access to research results to which no copyright restrictions apply, as well as to ensure that copyrights are granted and exercised with reason.

### **Public responsibility for the financing and provision of higher education and research**

16. Public authorities should recognise higher education and research as strategic investments, and public funding should be a major source of support for higher education and research. They should therefore provide substantial funding for higher education and research.

17. Public authorities should further establish a legal and policy framework to encourage institutions and staff to seek supplementary funding from other sources, including from the private sector. Public authorities should state their commitment to considering such funding as supplementary to, rather than as a substitution for, funding provided by public authorities exercising their responsibility for higher education and research.

18. Public authorities should, according to practice in each country, play a substantial role in the provision of higher education and research through public institutions and bodies. Their responsibility in this area should not prevent organisations, bodies or individuals from establishing higher education and research institutions and bodies within the legal and policy framework established by public authorities.

### **Instruments for exercising public responsibility**

19. Public authorities exercise their responsibility for higher education and research through the various instruments at their disposal, including legislation, funding, public policies, programmes and projects, and general encouragement of the initiatives of institutions, students and staff. In their choice of instruments, public authorities should, as far as possible, seek to avoid overly elaborate, costly and time-consuming administrative procedures.
20. In the choice of instruments for exercising their responsibilities, public authorities should respect the principle of institutional autonomy and acknowledge that funding, motivating and stimulating the development of higher education and research is as important a part of public responsibility as the exercise of regulation and control.