

Regulating for Globalization

Trade, Labor and EU Law Perspectives

Education and Training in the EU: Internal and External Dimensions

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This post constitutes the latest in a series of blog posts reflecting on the skilled nature of work. In previous posts, I have argued that work is best characterised as skilled productive activity; that the right to work must be understood as the most fundamental right relating to work; and that an important derivative right thereof is the right to have one's skills or qualifications recognised. In relation to qualification recognition, I have [elsewhere](#) outlined how and to what extent the EU facilitates labour mobility with its external trade partners through its international trade agreements. Yet facilitating such labour mobility between the EU and third-countries has only recently attracted the attention of some labour lawyers.[1]

My focus on skills also necessitates that we pay special attention to education and training. Allow me to explain. While the recognition of qualifications facilitates the use and development of people's skills in and through work, education and training also prepares people for work. Moreover, I have argued elsewhere that education and training can play an important role in facilitating qualification recognition, which itself is a necessary precursor to labour mobility and overall efficiency. Coordinating education and training in a market economy can facilitate the alignment of people's skills with jobs. In other words, it can help to match labour supply with demand.[2]

The Internal Dimension

Within the EU, the coordinated regulation of education and training is fairly limited, although it is on the rise. Perhaps the cornerstone of EU regulation of education and training is the European Qualifications Framework ('EQF'), a reference framework for qualifications which 'serves as a translation device between different qualifications systems and their levels'.[3] It does so by ranking qualifications obtained at every stage of education according to eight levels, based on their learning outcomes. In serving this purpose, it aims to make qualifications obtained in different educational systems and institutions more comparable by reference to a single framework for qualifications.[4] The EQF is embodied in a Council Recommendation and is therefore not legally binding on the member states. However, it is increasingly the case that qualifications obtained at all stages of education and training in the EU refer to the appropriate level of the EQF. As Sacha Garben notes, for the EQF to be truly successful, it must become '*the* general framework of assessing the level of education courses, both nationally and internationally'.[5] This extends not only to qualifications obtained in formal educational courses and education institutions, but also those obtained professionally. By facilitating the increasing comparability of educational

qualifications obtained across the Union, the EQF contributes to the creation of more uniform education standards in the EU. And creating more uniform standards is tantamount to governing education.

A second and very recent development in the regulation of education and training within the EU is the development of certain key competences for lifelong learning. In 2006, the Parliament and Council noted that, given the effects of globalisation, citizens of the Union will need a ‘wide range’ of ‘key competences’ to adapt and be flexible in a changing world.[6] Accordingly, the Parliament and Council adopted a Recommendation on key competences for lifelong learning to ensure that member states ‘identify and define the key competences necessary for personal fulfilment, active citizenship, social cohesion and employability in a knowledge society’. In other words, the Parliament and Council recommended that the member states adopt certain minimum content requirements in their educational curricula. An Annex to the Recommendation sets out a reference framework which contains eight key competences, which include ‘learning to learn’, ‘social and civic competences’ and ‘sense of initiative and entrepreneurship’. Of these, learning to learn is perhaps the most important; it is the most fundamental—basic—skill because ‘learning to learn supports all learning activities’.[7] The Commission’s role in relation to the development of key competences by member state nationals is to, *inter alia*, use the recommendation as a reference to facilitate peer learning and the exchange of good practices between the member states.

The Parliament and Council’s Recommendation of 2006 has since been replaced by a Council Recommendation of 2018.[8] The recitals to the Recommendation provide a helpful explanation as to the background and reasons for its introduction. First, the Council confirmed that everyone has a right to quality and inclusive education, training and lifelong learning in accordance with the terms of the European Pillar of Social Rights (‘EPSR’).[9] Second, a high share of young people, in particular, continue to lack basic skills, such as literacy and numerical skills.[10] Third, a revision of the Recommendation had been envisaged in the *New Skills Agenda for Europe* previously.[11] Finally, the advent of the EPSR, previously discussed in chapter 1.II.E, emphasises everyone has the right to education and training and to tailor-made assistance to improve their *employability*. [12] In other words, education and training should prepare people for work.

Accordingly, the member states should support the right to education, in particular those facing disadvantages, or having special needs. And the primary way of doing this, according to the Council Recommendation, is to cultivate those competences which are necessary for employability, personal fulfilment, active citizenship and social inclusion. The key competences envisaged by the updated Council Recommendation are essentially the same as in the 2006 Recommendation. And as under the 2006 Recommendation, the Commission is charged with facilitating peer learning between the member states, particularly by reporting on experiences and good practices which may better facilitate the enhancement of key competences.[13]

The External Dimension

The EU and many of its international partners are obliged to cooperate in relation to education, human resource development and up-skilling. For example, many of the EU’s partnership, cooperation and trade agreements include clauses concerning cooperation to improve the living and working conditions of nationals of the EU’s trading partners through improvements to their education system and investing in ‘human resource development’, thereby enabling the better use and development of the skills and qualifications of those nationals.

The following agreements contain clauses concerning cooperation, to varying degrees, in respect of education: the EEA Agreement;^[14] Euro-Mediterranean Agreement with Algeria;^[15] EU-Armenia CEPA;^[16] EC-Azerbaijan Agreement;^[17] EC-Bangladesh Agreement;^[18] Bosnia and Herzegovina Stabilisation and Association Agreement;^[19] Economic Partnership Agreement with CARIFORUM states;^[20] the Cotonou Agreement;^[21] Euro-Mediterranean Agreement with Egypt;^[22] EU-Central America Agreement;^[23] EC-Georgia Association Agreement;^[24] EC-Indonesia Agreement;^[25] EU-Iraq Partnership and Cooperation Agreement;^[26] Euro-Mediterranean Agreement with Israel;^[27] EU-Japan Agreement;^[28] Euro-Mediterranean Agreement with Jordan;^[29] EU-Kazakhstan Partnership and Cooperation Agreement;^[30] EC-Kosovo Stabilisation and Association Agreement;^[31] Euro-Mediterranean Agreement with Lebanon;^[32] EC-Macedonia Stabilisation and Association Agreement;^[33] EC-Mexico Economic Partnership, Political Coordination and Cooperation Agreement;^[34] EC-Moldova Association Agreement;^[35] EC-Montenegro Stabilisation and Association Agreement;^[36] Euro-Mediterranean Agreement with Morocco;^[37] EU-New Zealand Partnership Agreement;^[38] EC-Pakistan Cooperation Agreement;^[39] Euro-Mediterranean Interim Association Agreement with the Palestine Liberation Organisation;^[40] EC-Russia Partnership and Cooperation Agreement;^[41] Serbia Stabilisation and Association Agreement;^[42] EC-South Africa Trade, Development and Cooperation Agreement;^[43] Euro-Mediterranean Agreement with Tunisia;^[44] and EU-Ukraine Association Agreement.^[45]

Of these provisions, perhaps the most interesting is that contained in the EU-Armenia CEPA which provides that the parties shall cooperate with a view to approximating the education systems of Armenia to those of the EU. This reflects a very high degree of cooperation and integration between the EU and Armenia in respect of education. Armenia has been a member state of the Bologna Process since 2005, so it should come as no surprise that Armenia is approximating its higher education system to the EU's education systems.

A second source of international cooperation is in the context of the European Neighbourhood Policy, the EU's policy governing its relations with its southern and eastern neighbours, namely: Algeria, Egypt, Israel, Jordan, the Lebanon, Libya, Morocco, Palestine, Syria, Tunisia, Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Among other things, the ENP requires the development and implementation of country-specific action plans on an annual basis. These action plans are developed by the particular council established under the relevant association and trade agreement between the EU and third-countries in the EU Neighbourhood. They are then formally adopted by the Commission on the basis of an implementing decision, the details of which are contained in annexes thereto, and are binding on the EU.^[46]

Some of these action plans require that countries in the ENP develop, inter alia, national qualification frameworks ('NQFs') in line with the EQF; labour market skills matching tools, ie, qualification recognition systems; and educational exchanges between participating third-country students and EU students.^[47] Finally, in terms of financing, in addition to the annual action plans which draw directly on the EU's budget, the EU has adopted a European Neighbourhood Instrument specifically designed to provide funding for certain measures in respect of countries in the neighbourhood, such as promoting capacity building in education and training through the improved use and development of skills.^[48]

[1] See Jacques Poot and Anna Strutt, 'International Trade Agreements and International Migration' (2010) 33 *The World Economy* 1923; the essays in Marion Panizzon, Gottfried Zürcher and Elisa Fornalé (eds), *The Palgrave Handbook of International Labour Migration: Law and*

Policy Perspectives (Palgrave Macmillan 2015) part I; Fanny Tittel-Mosser, ‘The Unintended Legal and Policy Relevance of EU Mobility Partnerships’ (2018) 20 EJML 314; and Åsa Odin Ekman and Samuel Engblom, ‘Expanding the Movement of Natural Persons Through Free Trade Agreements? A Review of CETA, TPP and ChAFTA’ (2019) 35 IJCLLR 163.

[2] Dáire McCormack-George, ‘Trade in Services, Migration and Recognition of Professional Qualifications post-Brexit’ in Simon Tans and Marc Veenbrink (eds), *Upgrading Trade and Services in EU and International Trade Law* (Wolf 2019).

[3] [2017] OJ C189/15, recital 3.

[4] Sacha Garben, *EU Higher Education Law: The Bologna Process and Harmonisation by Stealth* (Kluwer Law International 2011) 79.

[5] *ibid* 80 (my emphasis).

[6] Recommendation of the Parliament and of the Council on key competences for lifelong learning [2006] OJ L394/10, Annex.

[7] Myriam Muñoz Vázquez, ‘“Learning to learn” a crucial competence for employability’ (2014) 139 *Procedia* 282.

[8] Council Recommendation on key competences or lifelong learning [2018] OJ C189/1.

[9] [2018] OJ C189/1, recital 1.

[10] [2018] OJ C189/1, recital 5.

[11] [2018] OJ C189/1, recital 8.

[12] EPSR, arts 1 and 4.

[13] [2018] OJ C189/1, Annex.

[14] Agreement on the European Economic Area between the European Communities, their Member states and the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation [1994] OJ L1/3., arts 1(2)(f) and 78.

[15] Euro-Mediterranean Agreement establishing an Association between the European Community and its Member states, of the one part, and the People’s Democratic Republic of Algeria, of the other part [2005] OJ L265/2, arts 74-78.

[16] Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part [2018] OJ L23/4, art 93.

[17] Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Azerbaijan, of the other part [1999] OJ L246/3, arts 44, 53 and 62.

- [18] Cooperation Agreement between the European Community and the People's Republic of Bangladesh on partnership and development [2001] OJ L118/48, art 10.
- [19] Stabilisation and Association Agreement between the European Communities and their Member states, of the one part, and Bosnia and Herzegovina, of the other part [2015] OJ L164/2, art 100.
- [20] Economic Partnership Agreement between the CARIFORUM States, of the one part, and the European Community and its Member states, of the other part [2008] OJ L289/I/3, art 196(2)(c).
- [21] Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part [2013] OJ L173/1, art 25.
- [22] Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, art 42.
- [23] Agreement establishing an Association between Central America, on the one hand, and the European Union and its Member States, on the other, art 42.
- [24] Association Agreement between the European Union and the European Atomic Energy Community and their Member states, of the one part, and Georgia, of the other part [2014] OJ L261/4, arts 358-359.
- [25] Framework Agreement on comprehensive partnership and cooperation between the European Community and its Member States, of the one part, and the Republic of Indonesia, of the other part [2014] OJ L125/17, art 25.
- [26] Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Iraq, of the other part [2012] OJ L204/20, arts 82-84.
- [27] Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part [2000] OJ L147/3, art 59.
- [28] Association Agreement between the European Union and the European Atomic Energy Community and their Member states, of the one part, and Georgia, of the other part [2014] OJ L261/4, art 96.
- [28] Agreement between the European Union and Japan for an Economic Partnership, art 16(1).
- [29] Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member states, of the one part, and the Hashemite Kingdom of Jordan, of the other part [2002] OJ L129/3, art 63.
- [30] Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member states, of the one part, and the Republic of Kazakhstan, of the other part [2016] OJ L29/3, art 244.
- [31] Stabilisation and Association Agreement between the European Union and the European

Atomic Energy Community, of the one part, and Kosovo, of the other part [2006] OJ L71/3, art 107.

[32] Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part [2006] OJ L143/2, art 43.

[33] Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part [2004] OJ L84/13, art 91.

[34] Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part [2006] OJ L276/45, art 30.

[35] Association Agreement between the European Union and the European Atomic Energy Community and their Member states, of the one part, and the Republic of Moldova, of the other part [2014] OJ L260/4, arts 122-123.

[36] Stabilisation and Association Agreement between the European Communities and their Member states, of the one part, and the Republic of Montenegro, of the other part [2010] OJ L108/3, art 102.

[37] Euro-Mediterranean Agreement establishing an association between the European Communities and their Member states, of the one part, and the Kingdom of Morocco, of the other part [2000] OJ L70/2, art 46.

[38] Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part, art 40.

[39] Cooperation Agreement between the European Community and the Islamic Republic of Pakistan on partnership and development [2004] OJ L378/23, art 4.

[40] Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organisation (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part [1997] OJ L187/3, art 38.

[41] Agreement on partnership and cooperation establishing a partnership between the European Communities and their Member States, of one part, and the Russian Federation, of the other part [1997] OJ L327/3, art 56(3).

[42] Stabilisation and Association Agreement between the European Communities and their Member states of the one part, and the Republic of Serbia, on the other part [2013] OJ L278/16, art 102.

[43] Agreement on Trade, Development and Cooperation between the European Community and its Member states, of the one part, and the Republic of South Africa, of the other part [1999] OJ L311/3, art 89.

[44] Euro-Mediterranean Agreement establishing an association between the European Communities and their Member states, of the one part, and the Republic of Tunisia, of the other part [1998] OJ L97/2, art 46.

[45] Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part [2014] OJ L161/3, arts 430-436.

[46] Parliament and Council Regulation 232/2014/EU establishing a European Neighbourhood Instrument [2014] OJ L77/27.

[47] See, eg, Commission Implementing Decision on the Annual Action Plan 2018 in favour of the Republic of Azerbaijan for 2018 C(2018) 8177 final, Annex; Commission Implementing Decision on the Annual Action Plan 2017 in favour of the Republic of Armenia to be financed from the general budget of the European Union C(2017) 8195 final, Annex 1.

[48] Parliament and Council Regulation 232/2014/EU establishing a European Neighbourhood Instrument [2014] OJ L77/27, Annex II.

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