

Admission to Studies, Lisbon Recognition Convention, “Substantial Differences” (Lissabon-Empfehlung Wesentliche Unterschiede)

The Federal Ministry of Education, Science and Research recommends proceeding, in the course of the ascertainment of the general university entrance qualification (64 para. 1 subpara. 3 of the Universities Act 2002 – UG, BGBl. I No. 120/2002, and art. 4 para. 5 subpara. 3 of the Universities of Applied Sciences Act – FHG, BGBl. No. 340/1993, in the present version), in the application of art. IV.1 of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (“Lisbon Recognition Convention”), BGBl. III No. 71/1999, in particular in deliberating the question whether there exist “substantial differences”, according to the following considerations:

1. Preliminary notes

The Lisbon Recognition Convention has made it possible to overcome the strict absoluteness of the European Convention on the Equivalence of Diplomas leading to Admission to Universities and to correspond to the changed situation in the field of titles for admission to higher education – strictly speaking to the first, not to further study programmes –, without abolishing the basic concept of equivalence. The instrument for that is the principle of global recognition, except the cases of “substantial differences”.

Thus, the question whether certain foreign qualifications show “substantial differences” in comparison to the own ones, is a central question for the application of the Lisbon Recognition Convention. Subsequently there will be made the attempt to define approximately some criteria which can serve the institutions of higher education as a guideline.

2. Regulations for admission to the first study programme

a. Convention art. IV.1:

Each Party shall recognize the qualifications issued by other Parties meeting the general requirements for access to higher education in those Parties for the purpose of access to programmes belonging to its higher education system, unless a substantial difference can be

shown between the general requirements for access in the Party in which the qualification was obtained and in the Party in which recognition of the qualification is sought.

b. Explanatory Report to art. IV.1:

This article concerns general requirements for access to higher education, as opposed to requirements for access only to certain types or programmes of higher education (cf. Article IV.2). The basic principle of the Convention is that qualifications giving the holder access to higher education in one Party should give the holder the same right in other Parties. It is recalled that access implies the assessment of applicants' qualifications with a view to determining whether they meet the general requirement for participation in higher education, but that their actual participation may be made dependent on the availability of places (admission). Access is therefore a first step towards pursuing studies in higher education. In some cases, access automatically gives admission, but in most cases admission is the second step towards pursuing studies in higher education, and not all applicants given access will be granted admission, cf. the definitions of access and admission under Section I.

A Party may, however, refuse to grant recognition if it can show that there is a substantial difference between its own general requirements for access and those of the Party in which the qualification in question was earned. Such differences may concern the contents of primary and secondary education, some examples of which are:

- a substantial difference between a general education and a specialized technical education*
- a difference in the length of study which substantially affects the curriculum contents*
- the presence, absence or extent of specific subjects, such as prerequisite courses or non-academic subjects*
- a substantial difference in focus, such as between a programme designed primarily for entrance to higher education and a programme designed primarily to prepare for the world of work.*

The above examples show some relevant areas in which substantial differences may occur. It should be underlined, however, that not any difference with respect to one of these areas should be considered substantial.

As a general rule, in assessing whether there is a substantial difference between the two qualifications concerned, Parties and higher education institutions are, however, encouraged to consider, as far as possible, the merits of the individual qualifications in question without having recourse to an automatic comparison of the length of study required to obtain the qualification. It is the duty of the Party or institution wishing to refuse recognition to show that the differences in question are substantial.

The term “qualifications issued by other Parties” should be understood to include qualifications belonging to the education system of a Party but earned at a school or other institution located outside of the territory of that Party.

3. Criteria for the application

- a. The principle to recognize the general university entrance qualification as a whole (art. 64 para. 1 subpara. 3 UG and art. 4 para. 5 subpara. 3 FHG) shall further apply. The question in which case there exist “substantial differences” in the formations forms part of the free appraisal of evidence, which is under the responsibility of the institution of higher education concerned.
- b. It is recommended to take into account especially the following criteria:
 - classification in the issuing country
 - classification in the receiving country
 - duration of formation
 - contents of formation
- c. Classification in the issuing country:

The document which is the basis for the application for admission should be a title for access to studies, in the system of the issuing country, i.e. it should give access to at least one higher education programme.
- d. Classification in the receiving country:

The kind of title for admission which is subject of an application of recognition should also exist in the receiving country.

Counter-example: The German “*Fachhochschulreife*” (entrance qualification for university of applied sciences programmes) does in Austria not confer a title for admission, being equivalent to an Austrian “*Reifezeugnis*”, because the general university entrance qualification is in principle a prerequisite also for the admission to Austrian university of applied sciences programmes. It can, however, as the German “*Fachhochschulreife*” is awarded often in correspondence to the access to a professional activity, be checked if the admission can be granted, if not on the basis of a “*Reifezeugnis*”, but on the basis of a „relevant professional qualification (art. 4 para. 7 FHG).
- e. Duration of formation:

As a rule, proof of at least twelve years of schooling should be given. In addition, it seems adequate to recognize secondary school leaving certificates, issued after a period of eleven years of schooling, as equivalent, if the prescribed extent of academic performance per school year exceeds the extent in the receiving country, for example by shorter

vacation times, or by a greater number weekly hours. Secondary school leaving certificates, issued after a period of ten years of schooling, however, should not be recognized as equivalent.

f. Contents of formation:

The majority of subjects should be academic ones. At that, not only the denominations of the subjects are relevant. E.g. the contents of a given academic subject can in certain cases be “hidden” in other denominations.

Taken as a rough formula – which is orientated on the guidelines for the recognition of the International Baccalaureate (see the current *IB-Empfehlung*) –, the contents of formation can be seen as sufficient if during the last three school years at least six subjects out of the following areas have been successfully passed:

- two languages. One of these languages can also be German, as a mother tongue or as a foreign language
- History, Geography, or Economics
- Mathematics
- Biology, Physics, or Chemistry
- one elective academic subject

The total amount of the academic subjects in the overall compulsory education of the last three school years should at least be 60%.

Attention should be paid to the fact if the minimum catalogue of the subjects has been passed at least at the pass level.

In cases where the university entrance qualification has been acquired on a non-traditional way (e.g. a university entrance examination, “*Studienberechtigungsprüfung*”), the equivalence of the examinations taken or of the other academic achievements with those of the receiving country should be checked.

- g. It seems, however, appropriate to compensate deficits in one of the criteria mentioned above by a surplus in one of the other criteria.
- h. If, after the review of these criteria, there still remain doubts, there can be additionally made use of optional criteria, so as the overall number of hours of the formation during the last three school years, or the grading (beyond the question of pass/fail level) of the academic subjects. These criteria, however, are in many cases problematic; that is why their application could possibly lead to unjust assessments and can therefore not be recommended generally.
- i) If, after having exhausted all possibilities, the reviewing higher education institution comes to the conclusion that the four criteria listed above are not fulfilled in an adequate way, a “substantial difference” with regard to the admission requirements exists. Art. IV.1 is indeed worded in an objective way, i.e. makes reference to the general system of access

in the country of origin. And in the case of many countries it will be possible to make general statements, which has the effect that between each two of them the system of the European Convention on the Equivalence of Diplomas leading to Admission to Universities can be maintained (e.g. Austrian “*Reifezeugnisse*” of general secondary schools need not mutually be compared to Swiss “*Maturitätszeugnisse*”, looking for “substantial differences”). Nevertheless there should, especially in case of applications from countries with less comparable systems, be referred to the individual certificate of the applicant, because possibly the combination of subjects chosen can have an effect on the result of the review.

- In case that single requirements of the criterion “contents of formation” have not been fulfilled, applicants should be bound to pass supplementary examinations for those subjects which cannot be proved sufficiently, prior to admission.
- In case that the criteria „classification“ or „duration of formation“ have not been fulfilled, the application should be denied in lack of an equivalent title for admission.

4. Procedure

- a) The Federal Ministry of Education, Science and Research in charge of ENIC NARIC AUSTRIA intends to publish recommendations on the secondary school leaving certificates and possible other kinds of access to higher education. This will take place with regard to the “Bonn guidelines” (“*Bonner Richtlinien*”) and in connection with the database ANABIN.
- b) Generally speaking, the legal position which has been acquired by the European Convention on the Equivalence of Diplomas leading to Admission to Universities, BGBl. No. 44/1957, i.e. the automatism of recognition of secondary school leaving certificates for the purpose of general university entrance qualification without a detailed examinations of the contents, should principally maintained. The assumption of “substantial differences” and in connection with that the necessity of detailed review should be kept restricted to cases of certain gravity.