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**ACCREDITATION STANDARDS OF LAW FACULTIES IN
THE TRANSITIONING STATES OF CENTRAL EUROPE
AND EURASIA**

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Introduction

Accreditation standards are one of the key elements of quality assurance and a prerequisite for the recognition of qualifications. Given the ever global nature of higher education and conformity with the provisions of the General Agreement on Trade in Services¹ [hereinafter “GATS”] and international agreements on the recognition of qualifications, such as the United Nations Educational, Scientific and Cultural Organization² [hereinafter “UNESCO”] Conventions, increased accreditation and quality assurance capacity building at the national and regional level is needed to promote increased quality assurance, transparent and rigorous accreditation standards and to facilitate the recognition of qualifications and, therefore, the mobility of legal professionals. Given the lack of uniformity among various national accreditation regimes, it will only be through the strengthening of national and regional standards and cooperation measures that an international framework can be established.

According to the International Association of University Presidents [hereinafter “IAUP”]³, there are a number of additional developments and challenges in the field of higher education that make an international framework approach to accreditation both desirable and necessary. For example, in addition to mobility issues related to GATS, there are “problems with credit transfer and accumulation; the joint development of programs by higher education institutions from different countries; the persisting problems with international recognition of degrees; the international activities of higher education institutions escaping national quality assurance and accreditation procedures; the rapid expansion of export and transnational delivery of higher education by means of branch campuses, off-shore institutions, and franchising agreements; the arrival of new providers, such as commercial private institutions for higher education; and last, but not least, the development of distance education, electronic delivery modes and virtual campuses and universities”.⁴ Essentially, national accreditation frameworks are not well suited to handle these developments and challenges as most national accreditation and quality assurance frameworks lack transparency and uniformity, thus making it difficult for parties outside of the framework to gauge the quality of education and, therefore, their ability to recognize foreign qualifications. As such, harmonization of quality assurance and accreditation standards under strengthened national systems, regional cooperation and agreements under an international framework is needed and desirable. Clearly what are needed are tools and mechanisms that enable transparency and uniformity in national accreditation standards, which

¹ The GATS was the culmination of discussions at the Uruguay Round. The GATS entered into force in January 1995. Like its counterpart the General Agreement on Tariffs and Trade [hereinafter “GATT”] the GATS was designed to create a credible and reliable system of international trade rules, ensure fair and equitable treatment of all participants under what is called the Principle of Non-Discrimination, stimulate economic activity, and promote trade and development through progressive liberalization.

² UNESCO was founded on 16 November 1945. UNESCO promotes international cooperation among its Member States in the fields of education, science, culture and communication. Available at <http://www.unesco.org> (Last visited 12 January 2005).

³ For details of the work on accreditation by the IAUP visit <http://www.ia-up.org> (last visited 16 May 2005).

⁴ IAUP, *Memo for the Commission on Global Accreditation of the International Association of University Presidents* (May 2000), 4. Available at <http://www.ia-up.org/grp5/dvandamme%20-%20memo%20-%20may%202000.doc> (last visited 16 May 2005).

can then be used to increase the exchange of criteria, standards, and mechanisms in an international framework. Although some have argued for a single international accreditation agency for higher education, this is simply not feasible given the multitude of national accreditation systems currently in place. In addition, a single international accreditation agency could potentially undermine the autonomy of institutions and the accreditation bodies responsible for accreditation and diminish the diversity of the current system.

In the following paper the meaning of and various types of accreditation, as well as the issues that globalization raises in relation to quality assurance, accreditation, and the recognition of qualifications, are addressed. Section one provides a definition of accreditation, describes the various types of accreditation (institutional versus program), (state accreditation versus independent accreditation), and (full, provisional/conditional). In addition, Section one discusses the process of accrediting (licensing, evaluation and accreditation). Section two examines the positions of key international actors, the need for an international accreditation framework, regional accreditation frameworks, and national accreditation and quality assurance mechanisms in place. This section provides not only a summary of existing practices, but suggestions for how best to strengthen existing systems and to promote regional and international cooperation and the implementation of new frameworks and tools in higher education quality assurance and accreditation standards.

Overview of Accreditation

Given the myriad of practices in higher education systems, there is no generally accepted definition of accreditation in higher education. For the purposes of this paper, I will adapt a definition that is consistent with that provided by the IAUP, International Network of Quality Assurance Agencies in Higher Education⁵ [hereinafter “INQAAHE”], European Association for Quality Assurance in Higher Education⁶ [hereinafter “ENQAA”], European Consortium for Accreditation in Higher Education⁷ [hereinafter “ECA”], and American Bar Association⁸ [hereinafter “ABA”]. Accreditation in this sense refers to formal recognition of a degree granting institution or program by an external body, which is based on an assessment or inspection, or both, of the institution or program’s quality control and assurance measures in higher education, which result in official status regarding degree awarding capacity, recognition

⁵ The main purpose of INQAAHE is to collect and disseminate information on current and developing theory and practice in the assessment, improvement and maintenance of quality in higher education. Available at <http://www.inqaah.org/> (last visited 28 July 2005).

⁶ For more details on ENQAA, see www.enqa.net/ (last visited 17 July 2005).

⁷ ECA was established in Cordoba in November 2003. The goal of the consortium is the achievement of mutual recognition of accreditation decisions among the participants before the end of 2007. The members of ECA believe that mutual recognition of accreditation decisions will contribute to the recognition of qualifications in higher education and the mobility of students in Europe. It will also make life easier for institutions and study programs operating across borders. Available at <http://www.eaconsortium.net/index.php?section=content&id=1> (last visited 28 July 2005).

⁸ The ABA is the organization responsible for accreditation of law faculties in the United States. More information available at <http://www.abanet.org/home.html> (last visited 28 July 2005).

of these degrees by third parties, credit transfer to other institutions, direct or indirect funding, and other effects. In most cases, accreditation is based on an evaluation of whether the institution or program meets the academic and professional standards of the accrediting body.

Accreditation is often seen as one of the tools of quality assurance along with evaluation. In many parts of the world, such as Europe, accreditation and quality assurance are intricately linked and accreditation is seen as the end result of quality assurance mechanisms. In other parts of the world, such as the United States, accreditation predates quality assurance and is, therefore, seen as related, but not necessarily a by-product of external quality control measures. In either case, accreditation and quality are linked and accreditation is seen as a tool to ensure quality assurance. For example, according to the IAUP, “by means of accreditation the accrediting body- which can be a voluntary association based on membership such as in the US, the state or an organization commissioned by the state, a rector’s conference, an inter-institutional network, a professional organization or others... guarantees towards third parties that the accredited program or institution is trustworthy regarding the quality of its outputs (credits, degrees, competencies of students, etc.)”⁹

Forms of Accreditation

Accreditation takes on various forms depending on the accreditation scheme of the country and the purpose for which accreditation is sought. For example, accreditation can be for an institution (institutional accreditation) or for a specific program or course of study (programmatic accreditation). In addition, the accreditation body can be the state or another entity authorized by the state or which operates independent of the state. Furthermore, accreditation can be full or provisional/conditional, or part of a process involving licensing, evaluation and accreditation. These various distinctions dictate which body is responsible for accreditation and the procedures and standards that must be met.

An important aspect of accreditation is whether accreditation is conducted to assess and guarantee the academic standards and quality assurance mechanisms of an institution or of a specific academic program or course of study. In terms of institutional accreditation, the focus is on whether, or not, the higher education institution meets the requisite standards to be able to provide a quality education. In particular, the accrediting body assesses the institutions holdings and resources, faculty qualifications, internal quality assurance measures, etc. In terms of degree programs, the accreditation body seeks to determine and guarantee that the program reaches the minimum standards established for such programs. There is a key distinction which is made between accreditation of new programs and accreditation of existing programs. In terms of new programs, accreditation, or licensing as the case may be, is based on an assessment of the faculty involved, curricula, and resources available to measure the potential that the program can succeed in meeting the established minimum standards. For existing programs, accreditation is based on an assessment of the success of the program. In many countries, periodic evaluation and accreditation of programs is conducted to ensure that institutions and programs are

⁹ IAUP, Memo for the Commission on Global Accreditation, *supra* note 4 at 2.

maintaining the standards required.

The next distinction which needs to be made, is whether the accreditation is granted by the state or another entity authorized by the state. In many countries of Europe and the former Soviet Union, state agencies, usually the Ministry of Education, have traditionally been responsible for licensing, evaluating and accrediting institutions and programs of higher education. In other countries, such as the USA, accreditation has been left to a professional organization. Essentially, there are four ways in which a state can handle the task of evaluating and accrediting higher education institutions and programs. First, the state can retain authority and responsibility for licensing, evaluating and accrediting higher education institutions and programs. Second, the state can retain control over licensing, but delegate the responsibility for evaluating and/or accrediting higher education institutions or programs to an independent institution through passage of a law. Third, as is the case in many European countries, independent, or mostly independent, agencies accredit the courses of study and provide the relevant state agency or body with recommendations on whether to accredit a higher education institution or program. Finally, as is the case in the USA and Canada, associations of higher education institutions and professional organizations are responsible for evaluating and accrediting higher education institutions or programs. Although there is no evidence that any one of these methods is more effective or stringent than the others, some have argued that leaving evaluation and accreditation authority with professional organizations rather than with the state encourages more transparency and accurate assessments. These arguments are largely based on the idea that institutions and programs are not as forthcoming in evaluations for fear of losing funding from the state.

The Process of Accreditation (Licensing, Evaluation, and Accreditation)

Accreditation is achieved in a variety of ways, but most accreditation is achieved through a multi-phased process initiated once an applicant institution or program submits an application to the state or authorized accreditation body within each jurisdiction, or once the accreditation body itself starts an accreditation procedure. For the purposes of this paper, I will first examine the process of licensing, evaluation and accreditation, which is prevalent in many European countries, Central and Eastern European [hereinafter “CEE”] countries, and transitioning states of the Newly Independent States of the former Soviet Union [hereinafter “NIS”]; then examine the types of accreditation, which can be granted (full, provisional/conditional).

In jurisdictions that utilize a process of licensing, evaluation and accreditation for higher education institutions or programs of study, the role of the state tends to be greater than in other countries. This is the case in most European countries and countries of the NIS region where this process is almost exclusively state-run and controlled.¹⁰ In countries with such a scheme,

¹⁰ For specifics on CIS licensing, evaluation and accreditation see CIS, Agreement on Coordination of Works in the Area of Licensing of Educational Activity, Evaluation and Accreditation of Educational Institutions. (Adopted 29 November 2001); LAW ON EDUCATION OF THE RUSSIAN FEDERATION #3266-1 (10 July 1992), art. 33 (18). Available at <http://www.mma.ru/article/id11970> (last visited 4 April 2006); LAW ON HIGHER AND POST-UNIVERSITY

any academic institution must be licensed, then evaluated, and finally accredited.

Licensing involves the formal act of the state granting license for a higher education institution to operate within the state and provide educational services. The process of licensing begins when an institution submits the required application and supporting documents to the licensing authority, which is usually the Ministry of Education, but can be a special agency or a specialized state education management body or accreditation committee. The documentation that a higher education institution must submit usually includes the formal application; a detailed description of the educational programs and curricula to be offered; details on the institutions physical facilities and academic capacity, as evidenced by the holdings of its library and resources; information on the qualifications of the faculty, such as degrees held and publications; and the financial stability of the institution. Based on the sufficiency of the documentation submitted, the licensing authority makes a determination and issues a decision. If the licensing authority decides not to grant an institution a license to render educational services, it should provide an explanation with the grounds for denial specified. Depending on the specific legislation involved the period of time in which the licensing authority should render a decision varies from about 15-60 working days. Normally an institution is allowed to resubmit an application with further evidence that shows that the grounds for the original denial have been addressed and rectified or that the institution has sought court relief and prevailed. If the application is granted, the licensing body will notify the institution of its decision and the decision itself will specify the fields of study the institution is licensed to provide services in and the degrees that the institution may confer. Typically a license is issued for a minimum of three years and a maximum of five years, but this can vary depending on the country.

The next steps in the process, after an institution obtains a license to provide educational services, are evaluation and accreditation. Depending on the system in place in any given country, evaluation can be done prior to accreditation or accreditation can be granted and evaluation then used to ensure compliance with quality assurance standards. Evaluation involves the process through which the state or authorized accreditation body assesses whether a licensed or accredited, institution or its academic programs meet the minimum quality standards required. Evaluations assess the quality of education provided; the adequacy of the curricula; the capacity of the institution; the qualifications of faculty; the duration of studies; the level of skills and competencies required of the students; and the adequacy of examinations in measuring these skills and competencies. In most systems a licensed, or accredited, institution must undergo periodic evaluation.

Evaluation in most countries is usually a two-step process. In step one, the institution performs an internal self-evaluation detailing the institution's academic mission statement and objectives; institutional capacity, such as infrastructure and academic holdings; curricula and teaching methodologies, and staff and faculty qualifications. The self-evaluation report must be provided to the relevant evaluation body and state body where required. Step two, or the only step in countries where an internal evaluation is not required, involves an external evaluation of

PROFESSIONAL EDUCATION OF THE RUSSIAN FEDERATION (19 July 1996), art. 10; and Christina Turturica, Law School Accreditation in the New Independent States of the Former Soviet Union: What Steps for the Future?, (CEELI Discussion paper Series) 8-9. Available at http://www.abanet.org/ceeli/publications/other_pubs/nis_law_school_accred.pdf (last visited 28 July 2005).

the institution, usually performed by an expert body. The external evaluating entity reviews the self-evaluation report, if required, conducts on-site inspections and compiles additional information on the institution and programs of study. Once the external evaluation has been completed, a report is submitted to the relevant evaluation body that makes a determination to give a positive or negative evaluation.

The next step, after licensing or, depending on the system in place after evaluation, is for an institution to apply for accreditation. The application process for accreditation involves the institution submitting a formal request to be accredited with the relevant accreditation body. Along with this request the institution must provide proof of licensing and often the articles of incorporation of the institution; a copy of the decision of the evaluating body; and a copy of the evaluating certificate indicating which fields and programs of study have been approved. If the accreditation body determines that the institution is in compliance with the requirements and standards necessary, a decision to accredit is adopted. Upon such a determination, the accreditation body will issue a certificate indicating the level of accreditation, such as university, academy, or institute, and the fields and degrees the institution is authorized to award degrees, diplomas, or other evidence of qualifications in.

Higher education institutions may also receive different levels of accreditation. For example, an institution may receive full or provisional/conditional accreditation. A decision by an accreditation body is authoritative and usually results in full accreditation or rejection of the application. However, in some countries, such as the United States, the decision can be provisional/conditional requiring further steps by the applicant institution to meet the required standards necessary for accreditation or contingent upon the institution demonstrating compliance with the required standards in subsequent evaluations. For the purposes of this paper, I will describe provisional or conditional accreditation in more detail in the below section on accreditation procedures in the United States.

International, Regional, and National Accreditation and Quality Assurance Mechanisms and Actors

A. International Accreditation Framework

The need for an overarching international accreditation framework and possible creation of an international accreditation agency has been the subject of much debate. Although I believe that an international framework is both needed and desirable to strengthen existing national systems and to achieve improved quality assurance and fuller recognition of qualifications, I do not believe that a single accreditation agency is the solution, nor practically speaking feasible or realistic. This sentiment is echoed by several actors intricately involved in the debate over accreditation in higher education. For example, the IAUP has addressed the issue of an international framework and possibility of establishing an international agency for academic accreditation. In particular, the IAUP argued in its 2000 Memo: *Accreditation in Global*

Education that “[w]hat is needed is not the establishment of one international agency for academic accreditation”, but rather “[w]hat higher education needs are instruments and mechanisms that can translate the effects and consequences of national accreditation procedures to the international academic community and promote the exchange of standards and criteria on a global scale”.¹¹ This assessment illustrates the challenge facing higher education as a result of increased globalization in higher education and offers a model for an overarching international framework that can facilitate the development of international accreditation standards without limiting the ability of individual countries and institutions to preserve unique elements of their education system. The IAUP points to the establishment of international systems of professional accreditation as an example of how accreditation actors should proceed. Specifically, the IAUP states that “[t]he lack of international procedures of academic accreditation of programs and institutions to some extent is compensated by the establishment of international systems of professional accreditation”.¹²

UNESCO has also been involved in the debate over the efficacy of establishing an international accreditation framework and possibility of establishing a single international accreditation agency, as well as the promotion of strengthened national, regional, and international accreditation standards and quality assurance measures.¹³ In addition, the UNESCO Final Report from the Global Forum on International Quality Assurance, Accreditation and the Recognition of Qualifications in Higher Education¹⁴ [hereinafter “Final Report”] recognizes the need for strengthening quality assurance mechanisms and accreditation standards to promote recognition of qualifications in higher education. Furthermore, the UNESCO Final Report states that there is a need to establish international frameworks, but points out that there is “still confusion whether international frameworks should deal with measuring standards of the educational quality or the quality of the quality assurance procedures”.¹⁵ The UNESCO Final Report calls for adherence to quality standards and offers the Council of Europe and UNESCO *Convention on the Recognition of Qualifications concerning Higher Education in the European Region*¹⁶ [hereinafter “Lisbon Recognition Convention”] and the various UNESCO Regional Conventions¹⁷ as international standards in

¹¹ IAUP, Memo for the Commission on Global Accreditation, *supra* note 4 at 5.

¹² *Id.*

¹³ UNESCO, *Policy Paper for Change and Development in Higher Education* (1995). Available at http://portal.unesco.org/education/en/ev.php-URL_ID=7814&URL_DO=DO_PRINTPAGE&URL_SECTION=201.html (last visited 16 May 2005).

¹⁴ UNESCO, Final Report from First Global Forum on International Quality Assurance, Accreditation and the Recognition of Qualifications in Higher Education *Globalization and Higher Education* ED-2002/HED/AMQ/GF.1/11 (17 December 2002). Available at <http://www.unesco.org/education>. (Last visited 12 January 2005).

¹⁵ *Id.* at 50.

¹⁶ Council of Europe and UNESCO, *Convention on the Recognition of Qualifications concerning Higher Education in the European Region* (Lisbon 1997). Available at <http://conventions.coe.int/treaty/en/Treaties/Html/165.htm> (last visited 28 July 2005).

¹⁷ These include: (1) *Regional Convention on the Recognition of Studies, Diplomas and Degrees in Latin America and the Caribbean* (1974), (2) *International Convention on the recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States Bordering on the Mediterranean* (1976), (3) *Convention on the Recognition of Studies, Diplomas, and Degrees Concerning Higher Education in the Arab States* (1978), (4) *Convention on the Recognition of Studies, Diplomas, and Degrees in Higher Education in the States Belonging to the European Region* (1979) [hereinafter “Convention on Recognition in the European Region”], (5) *Regional*

this regard.¹⁸ Essentially, UNESCO promotes the use of strengthened national standards, regional networks, and the development of an international accreditation framework, but does not necessarily promote the establishment of a single international accreditation agency.

The INQAAHE also promotes improvement and cooperation among quality assurance, evaluation and accreditation agencies on a national and regional level. Essentially, the INQAAHE serves as a venue by which quality assurance, evaluation and accreditation agencies can establish improved networks and INQAAHE helps its member agencies to strengthen the quality assurance, evaluation and accreditation standards in their individual countries and among regional networks they are members of. Although INQAAHE does not mention an international accreditation agency itself, INQAAHE is a vehicle for the dissemination of information and establishment of good practices and standards among quality assurance, evaluation and accreditation agencies.

B. Regional Accreditation Frameworks

Regional networks of quality assurance, evaluation, and accreditation agencies; regional associations of law faculties and higher education actors; and regionally based cooperation agreements among governments concerning quality assurance, evaluation and accreditation standards and mechanisms in higher education have been formed in the European region as well as in the CEE and NIS regions.

In terms of the European region, the ENQAA plays a vital role in promoting higher standards and cooperation among quality assurance, evaluation, and accreditation agencies. For example, ENQAA produces guidelines for quality assurance systems, promotes transparency and the sharing of good practices and standards, and provides a peer review system for Higher Education Quality Assurance Agencies. In the Berlin Communiqué,¹⁹ the Ministers responsible for Higher Education in the European Union [hereinafter “EU”] called upon ENQA through its members, in cooperation with the European University Association²⁰ [hereinafter “EUA”], European Association of Institutions in Higher Education²¹ [hereinafter “EURASHE”], and the

Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and other Academic Qualifications in Higher Education in the African States (1981), (6) *Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific* (1983), and (7) Council of Europe/UNESCO, *Convention on the Recognition of Qualifications concerning Higher Education in the European Region* (1997).

¹⁸ UNESCO, Final Report, *supra* note 14 at 51.

¹⁹ European Ministers of Higher Education, Conference of the Ministers of Education in Higher Education, Communiqué “Realizing the European Higher Education Area”. (19 September 2003 Berlin). Available at <http://www.bologna-berlin2003.de/pdf/Communique1.pdf> (last visited 20 April 2005).

²⁰ The EUA is the representative organization of both the European universities and the national rectors' conferences and the main voice of the higher education community in Europe. EUA's mission is to promote the development of a coherent system of European higher education and research. EUA aims to achieve this through active support and guidance to its members as autonomous institutions in enhancing the quality of their teaching, learning and research as well as their contributions to society. Available at <http://www.eua.be/eua/index.jsp> (last visited 17 July 2005).

²¹ EURASHE, European Association of Institutions in Higher Education, was founded in Patras, Greece in 1990. Members of EURASHE are National and Professional Associations of Colleges and Polytechnics and Individual

National Unions of Students in Europe²² [hereinafter “ESIB”] to “explore ways of ensuring and adequate peer review system for quality assurance and/or accreditation agencies or bodies, and to report back to the Bologna Follow-up Group to Ministers in 2005 [February]”.²³ In addition, all European Quality Assurance Agencies must submit and have published their membership criteria and they must adopt the ENQA emerging standards.

Other regional associations and actors, such as the ECA, European Law Faculty Association²⁴ [hereinafter “ELFA”], ESIB, EUA, and EURASHE all play a part in strengthening national standards, developing and promoting regional cooperation and networks, and creating an international framework for quality assurance, evaluation and accreditation in higher education. For example, the ESIB in its Student Göteborg Declaration in March 2001, stated that “[a]ccreditation, being a certification of a program, takes into account, among other criteria, the quality assurance process and should be used as a tool to promote quality”.²⁵ European institutions of higher education also recognized that quality assurance is an important element. For example, the EUA Salamanca Declaration²⁶ states that, “quality assurance should not be based on a single agency enforcing a common set of standards. The way into the future will be to design mechanisms at European level for the mutual acceptance of quality assurance outcomes, with ‘accreditation’ as one possible option”.²⁷

ELFA represents over 160 European law faculties and has addressed quality assurance, evaluation and accreditation. Given its unique position, ELFA could serve as the accrediting agency within Europe or serve as a venue for facilitating cooperation among law faculties and quality assurance, evaluation and accreditation bodies; the establishment of regional standards and networks; and strengthening national quality assurance, evaluation and accreditation systems.

Institutions. Reflecting the interest of Professional Higher Education in Europe, EURASHE organizes analyses, surveys, conferences and seminars related to higher education. EURASHE gives advice to the European Commission, Directorate Education and Culture, and to the Bologna Follow-up Group. Available at <http://www.eurashe.be/> (last visited 17 July 2005).

²² ESIB, the National Unions of Students in Europe, is the umbrella organization of 44 national unions of students from 34 countries and through these members represent over 10 million students. The aim of ESIB is to represent and promote the educational, social, economic and cultural interests of students at a European level towards all relevant bodies and in particular the European Union, Council of Europe and UNESCO. Available at <http://www.esib.org/> (last visited 17 July 2005).

²³ European Ministers of Education, Berlin Communiqué, *supra* note 19.

²⁴ ELFA, the European Law Faculties Association, was founded in 1995 in Leuven by more than 80 Faculties of Law located in different universities across Europe. The organization now has about 160 members from countries within the E.U. and beyond. The most important focus of ELFA is the reform of legal education in Europe. ELFA provides information about the current state of legal education in Europe and an international forum for the discussion of the impact of the Sorbonne-Bologna Declaration on the study of law. ELFA places particular emphasis on accreditation and quality assessment as a condition for the Europeanization of the study of law. Available at <http://www.elfa-afde.org/> (last visited 28 July 2005).

²⁵ ESIB, Student Göteborg Declaration (15 March 2001). Available at http://www.esib.org/BPC/docs/Archives/CoP004_Student_Goteborg_Declaration.pdf (last visited 16 May 2005).

²⁶ EUA, Salamanca Convention Message “The Bologna Process and the European Higher Education Area” (2001). Available at http://www.eua.be/eua/jsp/en/upload/SALAMANCA_final_1069342668187.pdf (last visited 16 May 2005).

²⁷ *Id.*

Quality assurance, evaluation and accreditation standards and mechanisms in Europe exist within the context of the Bologna system and the establishment of the European Higher Education Area (EHEA). Traditionally, higher education systems in Europe were varied depending upon the country and no coordinated system for quality assurance, evaluation and accreditation existed. However, with the increased integration within the EU, the need for a common approach and coordinated policies and standards has emerged. In addition, most European higher education systems are state-run. As such, institutions and programs receive formal recognition and approval to grant degrees from the state. However, with increased institutional autonomy, accreditation must continue to rely on external assessments of quality in addition to internal evaluation. In response, the EU has embarked on efforts to harmonize European higher education systems and develop European quality assurance and accreditation mechanisms. For example, under Article 149 the Treaty of Amsterdam,²⁸ EU Member States “shall contribute to the development of quality education by encouraging cooperation between member States”.²⁹ This is to be accomplished through such means as joint study programs, networks, and the dissemination and exchange of information. In 1998, the European Council and Parliament presented, and the Commission adopted, the *Recommendation on European Cooperation in Quality Assurance in Higher Education*³⁰, which promotes the establishment of transparent quality assurance mechanisms to improve quality standards, facilitate exchanges of information on quality assurance mechanisms, promote cooperation among European institutions of higher education, and establish examples of good practices and standards.

The process for improving European systems for quality assurance, accreditation and recognition of qualifications moved dramatically forward with the Lisbon Recognition Convention. Because accreditation is tied to quality assurance and recognition of qualifications is contingent upon the qualification being issued by a recognized and authorized higher education institution or program, the Lisbon Recognition Convention is important to a discussion of accreditation. For example, Article VIII.1 (a) states that:

“Each Party shall provide adequate information on any institution belonging to its higher education system, and on any program operated by these institutions, with a view to enabling the competent authorities of other Parties to ascertain whether the quality of the qualifications issued by these institutions justifies recognition in the Party in which recognition is sought. Such information shall take the following form:

- a. in the case of Parties having established a system of formal assessment of higher education institutions and programs: information on the methods and results of this assessment, and of the standards of quality specific to each type of higher education institution granting, and to programs leading to, higher education qualifications;

²⁸ EU, Treaty of Amsterdam *Official Journal C 340 of 10 November 1997*, (entered into force 1 May 1999), art. 149. Available at <http://europa.eu.int/abc/obj/amst/en/> (last visited 16 May 2005).

²⁹ *Id.*

³⁰ EC and Parliament, *Recommendation on European Cooperation in Quality Assurance in Higher Education* 12.10.2004 COM(2004) 642 final. Available at http://www.bologna-bergen2005.no/EN/Part_org/EU/041012_EC_quality.pdf (last visited 16 May 2005).

b. in the case of Parties which have not established a system of formal assessment of higher education institutions and programs: information on the recognition of the various qualifications obtained at any higher education institution, or within any higher education program, belonging to their higher education system”.³¹

Article VIII.2 (b) further states that each Party shall make adequate provisions for the development, maintenance and provision of “a list of recognized institutions (public and private) belonging to its higher education system, indicating their powers to award different types of qualifications and the requirements for gaining access to each type of institution and program”.³²

The principles contained in the Lisbon Recognition Convention were affirmed in the Sorbonne Declaration³³. In particular, the two-cycle degree structure and European Credit Transfer System [hereinafter “ECTS”] were touted as avenues to improve European harmonization in higher education and thus promote the goal of improved recognition of qualifications and mobility of students and professionals.

In 1999, the Ministers responsible for higher education signed the Bologna Declaration³⁴, which aims to establish a European space for higher education by improving the readability, transparency, compatibility and comparability of European higher education systems. To accomplish these goals, the Bologna Declaration calls for adoption of a system of easily readable and comparable degrees through implementation of the Diploma Supplement, the establishment of the ECTS as a means to promote mobility, introduction of two main cycles or two-tier degree structure (undergraduate and graduate), and cooperation in quality assurance.

The ESIB Student Göteborg Declaration of 2001 made the connection between harmonization of higher education systems, such as the two-tier cycle and system of easily readable and comparable degrees etc., and the need for a common European framework for accreditation criteria. For example, the Student Göteborg Declaration states that “[a] common European framework of criteria for accreditation and a comparable system of degrees is needed, in order to make sure that credits accumulated in different countries or at different institutions are transferable and lead to a recognizable degree”.³⁵ Furthermore, the Student Göteborg Declaration makes the connection between accreditation and quality assurance. Therefore, according to the Student Göteborg Declaration, “[t]o guarantee and improve the quality of higher education, a strong European cooperation of the national quality assurance systems is needed. Accreditation, being a certification of a program [or institution], takes into account, among other

³¹ UNESCO and Council of Europe, Lisbon Recognition Convention, *supra* note 16 at art. VIII.1 (a).

³² *Id.* at art. VIII.2 (b).

³³ European Ministers of Higher Education, *Sorbonne Joint Declaration on Harmonization of the Architecture of the European Higher Education System* (Paris 25 May 1998). Available at http://www.bologna-berlin2003.de/pdf/Sorbonne_declaration.pdf (last visited 16 May 2005).

³⁴ European Ministers in Charge of Education, *Joint Declaration of the European Ministers of Education*. (Bologna 19 June 1999). Available at http://www.bologna-berlin2003.de/pdf/bologna_declaration.pdf (last visited 28 July 2005).

³⁵ ESIB, Student Göteborg Declaration, *supra* note 25.

criteria, the quality assurance process and should be used as a toll to promote quality”.³⁶

The Salamanca Convention of 2001 recognized the need for improved quality assurance, but stated that in Europe “quality assurance should not be based on a single agency enforcing a common set of standards”.³⁷ Instead, the Salamanca Convention calls for European level mechanisms for the mutual acceptance of quality assurance outcomes of which accreditation is one option. The European higher education institutions endorsed the move toward a compatible qualification framework, but emphasized European higher education institutions should be responsible for ensuring quality by self-regulation.

Meeting in Prague in 2001, the European Ministers in charge of higher education assessed the progress achieved since the Bologna Declaration and set goals and priorities. The Prague Communiqué reaffirmed the principles of the Bologna Declaration and the need for harmonization in higher education. In addition, the Ministers addressed the concerns and positions stated by the ESIB and EUA in Göteborg and Salamanca and affirmed the efficacy of various initiatives, such as promotion of a two-cycle degree structure, use of the ECTS and Diploma Supplement, and use of the European Network of Information Centers on Recognition and Mobility of the Council of Europe and UNESCO [hereinafter “ENIC Network”] and National Academic Information Centers of the European Commission [hereinafter “NARIC Network”].³⁸ In terms of accreditation and quality assurance, the Ministers in their Prague Communiqué stated that “[t]hey emphasized the necessity of close European cooperation and mutual trust in and acceptance of national quality assurance systems. Further, they encouraged universities and other higher education institutions to disseminate examples of best practice and to design scenarios for mutual acceptance of evaluation and accreditation/certification mechanisms”.³⁹ To achieve this, the Ministers called upon the ENQA, in cooperation with corresponding bodies from non-ENQA countries, to collaborate and establish a common framework of reference to disseminate best practices.

The EUA Graz Declaration⁴⁰ of 2003 specifically addressed the issues of quality assurance, institutional autonomy, and self-regulation of higher education institutions. Essentially, the EUA called for a “coherent QA [quality assurance] policy for Europe, based on the belief that institutional autonomy creates and requires responsibility, that universities are responsible for developing internal quality cultures and that progress at European level involving all stakeholders is a necessary step”.⁴¹ In terms of external review, the Graz Declaration states that External quality assurance procedures should focus on checking, through institutional audit, that internal monitoring has been effectively done. Basically, the EUA position is that the

³⁶ *Id.*

³⁷ EUA, Salamanca Convention, *supra* note 26.

³⁸ Details on the UNESCO and Council of Europe ENIC Network and European Commission NARIC Network is available at www.enic-naric.net (last visited 16 March 2005).

³⁹ European Ministers of Education, Communiqué of the meeting of European Ministers in charge of Higher Education, “Towards the European Higher Education Area” (Prague 19 May 2001). Available at [http://www.cep.org.hu/hesss/doc/bologna/Prague%20Communiqué%20\(2001\).pdf](http://www.cep.org.hu/hesss/doc/bologna/Prague%20Communiqué%20(2001).pdf) (last visited 11 April 2005).

⁴⁰ EUA, Graz Declaration 2003 “Forward from Berlin: The Role of the Universities”. Available at http://www.eua.be/eua/jsp/en/upload/COM_PUB_Graz_publication_final_1069326105539.pdf (last visited 16 May 2005).

⁴¹ *Id.*

European dimension to quality assurance should be used simply to promote mutual trust and to improve transparency, while ensuring the diversity of national contexts. Therefore, “QA procedures for Europe must: promote academic and organizational quality, respect institutional autonomy, develop internal quality cultures, be cost effective, include evaluation of the QA agencies, minimize bureaucracy and cost, and avoid over regulation”.⁴²

The Ministers responsible for higher education meeting in Berlin in 2003 addressed the Bologna Process and sought to clarify where the process of national quality assurance systems should be by 2005. For the first time the Ministers officially recognized the role of higher education institutions in promoting quality within the Bologna Process. Essentially, the Ministers stated that national quality assurance systems should include a definition of the responsibilities of the bodies and institutions involved; evaluation of programs or institutions, including internal assessment, external review, participation of students and the publication of results; a system of accreditation, certification or comparable procedures; and international participation, cooperation and networking. To accomplish this goal, the Ministers called upon ENQA in cooperation with EUA, EURASHE, and ESIB to develop an agreed set of standards, procedures and guidelines on quality assurance and/or accreditation agencies or bodies and to report back to the Ministers in 2005.

In various initiatives the institutions of higher education have taken up the concept of the European Higher Education Area and the principles of the Bologna Declaration. For example, the ENQA was formed and other initiatives, such as the Joint Quality Initiative, have been undertaken. The Joint Quality Initiative attempts to develop output-oriented descriptors for Bachelor’s and Master’s degrees. In an effort to strengthen these efforts, the Joint Quality Initiative presented Descriptors in Dublin in February 2002⁴³ that describe the areas of competence to be covered by Bachelor and Master degree graduates. A number of agencies have already declared that they will apply these standards in their evaluation process.

In several European countries developments toward linking programs to external quality based accreditation have begun to take hold. For example, in Germany the introduction of Bachelor-Master programs was accompanied by the establishment of an accreditation system for those programs. In addition, state accreditation of institutions and programs is contingent upon accreditation by independent accreditation agencies. In 1999, a nationwide accreditation council (*Akreditierungsrat*)⁴⁴ that is mainly responsible for approving accreditation agencies, coordinating their activities, and supervising them was formed. In addition, within Germany there is the Standing Conference of the Ministers of Education and Culture (KMK) (the *Kultusminister Konferenz*)⁴⁵, the Rector’s Conference (HRK) (*Hochschulrektorenkonferenz*)⁴⁶, the HRK Accreditation Council (*Akreditierungsrat*)⁴⁷, and several other agencies and groups

⁴² EUA, Graz Declaration, *supra* note 40.

⁴³ See <http://www.jointquality.org/agenda.html> (last visited 28 July 2005).

⁴⁴ See www.akreditierungsrat.de (last visited 8 May 2005).

⁴⁵ Germany, Standing Conference of the Ministers of Education and Culture (KMK) (the *Kultusminister Konferenz*) Available at www.kmk.org (last visited 9 May 2005).

⁴⁶ Germany, Rector’s Conference (HRK) (*Hochschulrektorenkonferenz*). Available at www.hrk.de (last visited 9 May 2005).

⁴⁷ Germany, HRK Accreditation Council (*Akreditierungsrat*). Available at www.akreditierungsrat.de (last visited 9 May 2005).

involved in cross-discipline accreditation, including law.⁴⁸ In the United Kingdom a new approach to quality assurance was initiated in 2000-2001, based on the Dearing Report⁴⁹ that calls for the establishment of a national framework for higher education qualifications. The result was creation of the Quality Assurance Agency (QAA)⁵⁰ in 1997, which has created benchmark statements⁵¹ for subjects, instituted standards for awarding academic qualification, standards of skills and competencies for students, and has created a *Code of Good Practices*⁵² for institutions of higher education and *Handbook for Institutional Audit in England*.⁵³ QAA utilizes a two-part assessment process, which consists of reviewing the self-evaluation report from the institution of higher education and an external review process by a team of experts. In the Netherlands, the government has introduced international accreditation procedures and bi-lateral cooperation with neighboring countries. In Finland, the Finnish Higher Education Evaluation Council (HEEC) was created, which carries out both the assessment of institutions and the accreditation and registration of professional courses. Finally, in Austria, an Accreditation Council has been formed that is responsible for accreditation of private institutions of higher education.

In 1999, the European Commission for Higher Education, in conjunction with the EUA, launched a project called the CRE Accreditation Project.⁵⁴ This project is designed to examine compatible quality assurance, evaluation and accreditation mechanisms and to clarify the relationship between national, regional, and trans-European quality assurance and accreditation activities.⁵⁵ Based on the recommendations of the CRE Accreditation Project report the ENQA was established in 2002.

In 2003, the Council of Europe issued a *Recommendation on European Cooperation in Quality Assurance in Higher Education*. The Council called for further steps at integration and affirmed the measures discussed in the Bologna Process as the basis for a framework on quality assurance, evaluation and accreditation. Besides the promotion of transparency and the dissemination of information through such venues as ENIC and NARIC, the Council's Recommendation encourages cooperation in the establishment of criteria, standards, and best practices.

⁴⁸ Examples of other German Accreditation Agencies include the Accreditation, Certification and quality Assurance Institute (ACQUIN), the Agency for Quality Assurance through Accreditation of Study programs (AQAS), and the Central Evaluation and Accreditation Agency (ZevA).

⁴⁹ UK, *Report of the United Kingdom National Committee of Inquiry into Higher Education (The Dearing Committee Report)*. Available at <http://www.leeds.ac.uk/educol/ncihe/> (last visited 28 July 2005).

⁵⁰ The United Kingdom Quality Assurance Agency (QAA) was established in 1997. For details see www.qaa.ac.uk/ (last visited 8 May 2005).

⁵¹ United Kingdom, *QAA Benchmark Statements for Law Programs*. Available at <http://www.qaa.ac.uk/cmtwork/benchmark/law.pdf> (last visited 8 May 2005).

⁵² United Kingdom, *QAA Code of Practice*. Available at <http://www.qaa.ac.uk/public/COP/codesofpractice.htm> (last visited 8 May 2005).

⁵³ United Kingdom, *QAA Handbook for Institutional Audit: England*. Available at http://www.qaa.ac.uk/public/inst_audit_hbook/iaintro.htm (last visited 8 May 2005).

⁵⁴ European Commission for Education and the Association of European Universities, *CRE Accreditation Project*. Available at http://www.unige.ch/activities/accreditation/accreditation_home.htm (last visited 8 May 2005).

⁵⁵ Christina Turturica, Law School Accreditation in the NIS, *supra* note 10 at 23.

On 3 December 2004, members of the ECA signed a *Code of Good Practice*⁵⁶, making an important step towards the harmonization of the European Higher Education Area. The Code of Good Practice regulates accreditation procedures in higher education with unified standards and establishes concrete requirements for the internal quality management of the accreditation agencies. This will serve as the basis for mutual recognition among ECA member countries of each others accreditation decisions. The Code of Good Practice is an attempt to meet the requirements of the Berlin Communiqué for development of mutually recognized guidelines, criteria, and methods of quality assurance.

Meeting in Bergen, Norway in May 2005 the Ministers responsible for Higher Education further defined the framework for European quality assurance, evaluation, and accreditation. Working on this initiative and aforementioned developments the Ministers responsible for higher education are in position to take the necessary steps to move the European Higher Education Area along.

Accreditation in the countries of the CEE region functions under the Bologna Process to a large degree, especially since the accession of many CEE countries to the EU in 2004. In terms of quality assurance, evaluation and accreditation, one of the key actors in promoting cooperation and improved standards among quality assurance, evaluation and accreditation agencies is the CEE Network of Quality Assurance Agencies⁵⁷ [hereinafter “CEE Network”]. According to Article 2 one of the stated objectives of the CEE Network, quality assurance agencies are to:

“share experiences and foster cooperation among member agencies; to exchange information about background, aims, procedures and outcomes of activities of member agencies; to recommend experts; to serve as a clearinghouse for issues on quality assurance and accreditation in higher education in the Central and Eastern European countries; to assist each other in elaborating measures for harmonizing activities in quality assurance, in order to participate in the European dimension of higher education, and to play a proactive role in shaping the European higher education area; and to open common possibilities in launching new projects for the sake of better quality in higher education and build consortia for joint activities”.⁵⁸

In most CEE countries, state-controlled accreditation procedures are common. During the 1990’s many CEE countries adopted new legislation for their higher education systems, including state-controlled accreditation procedures for existing state-run institutions and new private institutions.

For example, in Albania,⁵⁹ the System of Accreditation for Higher Education [hereinafter

⁵⁶ ECA, *Code of Good Practice for the Members of the European Consortium for Accreditation in Higher Education*. Available at www.eacaconsortium.net/download.php?id=33 (last visited 28 July 2005).

⁵⁷ CEE Quality Assurance Network. For more information on the activities, details, and programs of the CEE Quality Assurance Network as well as each agencies’ country report submitted to the CEE Quality Assurance Network see <http://www.ceenetwork.hu> (last visited 3 March 2005).

⁵⁸ *Id.* at art. 2.

⁵⁹ CEE Network, Albania Report. Available at http://www.ceenetwork.hu/r_albania.html (last visited 9 May 2005).

“SAHE”] was established under a decision of the Council of Ministers. SAHE is responsible for evaluating and accrediting higher education institutions and programs. The institutions of Accreditation include: the Agency of Accreditation for Higher Education [hereinafter “AAHE”] and the Council of Accreditation (CA), which work in cooperation with the Ministry of Education and Science. The activities of AAHE involve evaluation followed by an accreditation decision. The government controls the system and the members of the agency are appointed by the Minister of Education and Science.

In Austria,⁶⁰ several agencies are responsible for quality assurance and accreditation. For example, private universities are evaluated and accredited by the Austrian Accreditation Council [hereinafter “AAC”]. The AAC is actively involved in European and international quality assurance networks and in the development of mutually shared criteria and methodologies on quality assurance. The monopoly of the state as supplier of higher education ended with the *Fachhochschulrat* Studies Act in 1993. Under this Act, FH [State run faculty] programs are accredited by the *Fachhochschulrat* Council [hereinafter “FC”]. The Austrian Agency for Quality Assurance [hereinafter “AQA”] is responsible for quality assurance and evaluation for all public and private universities and universities of applied sciences. It is also responsible for ranking of higher education institutions in the field of Social and Economic Sciences and Law. AQA was created in 2004 as an independent body on initiative by the Austrian Rector’s Conference, Conference of the Universities of Applied Sciences, the Association of Private Universities, the Students Union and the Federal Ministry of Education, Science and Culture. AQA provides counseling and support for higher education institutions in quality assurance mechanisms, organizes and coordinates the evaluation of higher education teaching, drafts quality standards and contributes to the competence in quality assurance. AQA assists and compliments the AAC and FC.

In Bulgaria,⁶¹ the National Evaluation and Accreditation Agency [hereinafter “NEAA”] was formed in 1997. The NEAA is responsible for all accreditation of institutions and programs of higher education. By the end of 2001, the NEAA had conducted external visits and evaluations of all 47 higher education institutions in Bulgaria. In late 2004, the NEAA initiated a new round of institutional review and accreditation of the now 51 existing institutions of higher education. In 2003-04, the NEAA improved its methods of evaluation and accreditation. In particular, new amendments to the Higher Education Act, which took effect in June 2004, has shifted focus of evaluations to evaluation of quality, rather than the evaluation of compliance with the state regulations. In terms of program assessment, evaluation is moving from program by program to subject level evaluation. Finally, the new Higher Education Act introduces post-accreditation monitoring, which became effective after January 2005.

In Croatia,⁶² the National Council for Higher Education in Croatia was founded by the

Also see Albania, Council of Ministers Decision No. 303 (7 January 1999). Available at <http://www.ceenetwork.hu/> (last visited 10 March 2005).

⁶⁰ CEE Network, Austria Report. Available at http://www.ceenetwork.hu/r_bulgaria.html (last visited 9 May 2005). Also See AAC website at www.akreditierungsrat.at (last visited 9 May 2005).

⁶¹ CEE Network, Bulgaria Report. Available at http://www.ceenetwork.hu/r_bulgaria.html (last visited 9 May 2005).

⁶² CEE Network, Croatia Report. Available at http://www.ceenetwork.hu/r_croatia.html (last visited 9 May 2005).

Parliament in 1993. The National Council for Higher Education is designed to serve as an advisory body to the Ministry of Science and Technology and to Croatian universities and other institutions of higher education. The legal framework for quality assurance, evaluation and accreditation is controlled by the 1993 Higher Education Act, which was amended in 1996. This Act defines the national quality assurance system and the roles of the Ministry of Sciences, Education and Sport; the National Council for Higher Education and the institutions of higher education. The Higher Education Act introduced self-evaluation of the faculties and universities as the basis for evaluation. Based on these evaluations the National Council publishes an evaluation outline and arranges for external review and a final report. Based on the proposal of the National Council, the Ministry can propose that the status of the institution is adequate; the status of the institution needs to be changed; or that the institution needs to be abolished. Up to 2003 only 45% of faculties had been evaluated, but in 2004 the National Council continued with evaluations and evaluations of all faculties were completed by the end of 2005.

In the Czech Republic,⁶³ the Accreditation Commission [hereinafter “AC”] is the main actor in state accreditation. The AC was established in 1990 pursuant to the Higher Education Act of 1990 and the new Higher Education Act of 1998. The AC is an independent government body responsible for ensuring quality in higher education. The AC has primary responsibility for providing expert opinions, which serve as the basis for the decision whether to accredit an institution or program by the Ministry of Education, Youth, and Sports. Since 1992, the AC has conducted peer reviews and comparative evaluations of faculties in related fields of study. The main duties of the AC, as laid out in the Higher Education Act of 1990, are to “generally care for the quality of higher education, which consists of the comprehensive evaluation of all accredited activities and the publication of the results”.⁶⁴ Until 1998, the AC’s activities were comprised mainly of evaluation of newly established higher education institutions and passing judgment on accreditation of new study programs and evaluation of higher education institutions as institutions. In 1998, a new Higher Education Act produced a series of changes to the Czech higher education system and gave new competencies and responsibilities of the AC. In particular, the AC now has responsibility for evaluation and judgment of all study programs. The 1998 Higher Education Act also made it possible for legal entities, with a domicile in the Czech Republic, to be authorized to act as private higher education institutions recognized by the state, if granted permission by the Ministry of Education, Youth, and Sports. To address these new private institutions, the 1998 Higher Education Act states that the AC is responsible for recommending accreditation to the Ministry of Education, Youth, and Sports.

In Estonia,⁶⁵ the responsibility for quality assurance, evaluation and accreditation rests with two bodies. The first is the Higher Education Accreditation Center [hereinafter “HEAC”], which was established by the government in 1997. The HEAC mainly organizes accreditation of programs of study, but also conducts reviews of institutions. The HEAC essentially functions as a coordinating body for accreditation procedures. The second is the Higher Education Quality Assessment Council [hereinafter “HEQAC”], which was created under the Law on Universities

⁶³ CEE Network, Czech Republic Report. Available at http://www.ceenetwork.hu/r_czech.html (last visited 9 May 2005).

⁶⁴ Helena Šebková and Ondřej Svatoň, STATE ACCREDITATION IN THE CZECH REPUBLIC. 4 July 2003. Available at <http://www.ceenetwork.hu/> (last visited 10 March 2005).

⁶⁵ CEE Network, Estonia Report. Available at http://www.ceenetwork.hu/r_estonia.html (last visited 9 May 2005).

in 1995. Essentially, the HEQAC examines review team reports of institutions and programs of study, makes a recommendation to the Ministry of Education and Research on accreditation, and is responsible for devising the criteria and methodology for accreditation, which are approved by the Ministry of Education and Research. Accreditation decisions by the Ministry of Education and Research are either for full accreditation, which is valid for 7 years; conditional accreditation, which is valid for 3 years; or the institution or program, is not accredited.

In Hungary,⁶⁶ the Hungarian Accreditation Committee [hereinafter “HAC”] was established in the Education Law of 1993, to accredit higher education institutions. The HAC evaluates applications to establish and grant state recognition to institutions of higher education and faculties, on new study programs, on national qualification requirements for all degree programs in Hungary. The HAC also reviews applications by foreign higher education institutions who wish to operate independently in Hungary or in conjunction with a Hungarian institution. Accreditation in Hungary is based on an institution’s or program’s compliance with the Higher Education Act. In 2000, the HAC adopted a Code of Ethics and in 2002 it adopted a Strategic Plan. In 2004, the HAC began a second round of evaluations and reviews of accreditation. To facilitate the process many institutions have begun to send annual reports to the HAC. For doctoral schools the HAC’s determinations are binding, but for others the Minister of Education may deviate. The HAC itself was reviewed externally in 1999-2000 by the CRE and EUA whose report has been published.⁶⁷

In Latvia,⁶⁸ accreditation of institutions of higher education is done under the Higher Education Quality Evaluation Centre [hereinafter “HEQEC”]. The HEQEC was established by the Law on Higher Education Establishments, which was adopted in 1995 and amended in 2000. The HEQEC is responsible for organizing quality assessment of higher education institutions and programs of study on behalf of the Ministry of Education and Science; setting up commissions and working groups to solve problems in quality assessment and accreditation; inviting foreign experts for peer review; to inform society about results of quality assurance; and to support the procedures aimed at quality assessment in higher education institutions and programs of study. Under the law, only institutions who have received accreditation may issue certificates of higher education. The procedure for evaluation and accreditation begins when the staff of the HEQEC reviews the self-evaluation reports and prepares a site visit. Second, foreign members of the Evaluation Commission read the self-evaluation reports and conduct an on-site visit. Third, there is a preliminary report issued and public discussion based on it. Finally, an accreditation decision is made by the Council for Higher Education and it is approved by the parliament for accreditation of higher education institutions or by the Accreditation Commission set up by the Ministry of Education and Science. Accreditation decisions take on one of several forms: they can be permanent for higher education institutions and 6 years for programs of study; they can be for two-years (temporary) for higher education institutions and programs of study; or should the Council of Higher Education and the Accreditation Commission give a negative assessment, a denial can be issued. There are four reasons for a denial: 1. the submitted documents do not comply with legal requirements; 2. the qualifications of the academic staff are

⁶⁶ CEE Network, Hungary Report. Available at http://www.ceenetwork.hu/r_hungary.html (last visited 9 May 2005).

⁶⁷ CRE, Report on Hungary HAC. Available at www.mab.hu (last visited 28 July 2005).

⁶⁸ CEE Network, Latvia Report. Available at http://www.ceenetwork.hu/r_latvia.html (last visited 9 May 2005).

insufficient; 3. the institution's facilities are inadequate; and 4. the institution does not provide study laboratories.

In Lithuania,⁶⁹ the Center for Quality Assessment in Higher Education [hereinafter "The Center"] organizes the assessment of scientific and pedagogical activity of research and higher education institutions, assessment of higher education qualifications, qualifications giving access to higher education and providing information about the recognition of qualifications. The Center was established by the Ministry of Education and Science. The Center is responsible for the coordination of the self-analysis process of higher education and research of state and private institutions of higher education, organizing expert evaluations, evaluating qualifications concerning higher education earned abroad, and publishing the outcomes of assessments and disseminating information on international standards and good practices in quality assurance. In Lithuania, there is a binary system of higher education (University type study and non-university type study) and a two-cycle higher education system with the doctorate as a third cycle. In terms of evaluation and accreditation, external evaluation and accreditation are mandatory. Essentially, all higher education institutions submit self-evaluation reports to the Center. Next, an expert group reads the self-evaluation reports and conducts an on-site evaluation visit. The expert group then recommends full accreditation, temporary accreditation, restricted accreditation, or no accreditation. The Center then submits this recommendation to the Ministry of Education and Science that makes a final decision.

In Macedonia,⁷⁰ the Law on Higher Education of 2000 began the new process of evaluation and accreditation. Under the system, the Higher Education Accreditation Board [hereinafter "HEAB"], an independent body composed of 15 members, determines whether requirements have been met by the higher education institution; decides on the licensing of an institution wishing to conduct post-graduate studies; determines whether the higher education institution fulfils the conditions for organizing new study programs; licenses study programs; and keeps records of higher education institutions it has licensed. The system of providing for and assessing the quality of higher education includes: approving, confirming and recognizing of higher education institutions to conduct education in accordance with the law; assessment of the quality of higher education activity; quality assessment of teaching staff at higher education institution; and other activities through which higher education quality is developed and maintained. External evaluation and joint quality assessment is performed by the Higher Education Evaluation Agency of Macedonia and self-evaluation is performed by the institutions. The Evaluation Agency publishes a report on the evaluation results and submits the report to the Parliament, the Government, and the Ministry in charge of higher education.

In Poland,⁷¹ the University Accreditation Commission [hereinafter "UAC"], was established in 1998 by the Conference of Rectors of Polish Universities [hereinafter "CRPU"]. The UAC is responsible for evaluation and accreditation in all Polish institutions of higher education. The accreditation procedure in Poland commences when not less than five

⁶⁹ CEE Network, Lithuania Report. Available at http://www.ceenetwork.hu/r_lithuaniaia.html (last visited 9 May 2005).

⁷⁰ CEE Network, Macedonia Report. Available at http://www.ceenetwork.hu/r_macedonia.html (last visited 9 May 2005).

⁷¹ CEE Network, Poland Report. Available at http://www.ceenetwork.hu/r_poland.html (last visited 9 May 2005).

universities send in requests for accreditation and submit a self-evaluation report. The universities send in a list of five experts for an expert group, the evaluation team and appellate teams. UAC selects from the lists an expert team, which within two months prepares specific standards for assessing the quality of education in a given course of studies. Based on these, the evaluation team performs a review and assessment of the course of study offered at an institution and prepares a report which is presented to the UAC together with their recommendation to accredit, defer accreditation until conditions are met, or to refuse accreditation. Normally accreditation is granted for 2-5 years and it must be approved by the CRPU. The system of higher education is supervised by the Minister of National Education and Sports and the Minister of Health, Minister of Culture and National Heritage, and the Minister of Infrastructure. Poland has both state and private institutions of higher education. A private institution must get permission to conduct educational study from the Ministry of National Education and Sport. The Polish State Accreditation Committee [hereinafter "PSAC"] was established in January 2002 based on an amendment of the Higher Education Act in July 2001. Evaluation by the PSAC is obligatory. The PSAC is tasked, under Article 38.2 of the Higher Education Act to:

1. Prepare evaluation of all applications to establish an institution of higher education, establish a basic or external unit of institution, establish a new degree program in existing institutions, or assign specializations.
2. Evaluate the quality of education as well as compliance with the requirements for offering degree programs
3. Granting the right of establishment and to offer study programs different from those specified in the regulation of the Minister of National Education and Sports of March 2002

In Romania,⁷² the Law on Accreditation of Higher education Institutions and Diploma Recognition (Law 88/1993, modified in 1999) governs academic evaluation and accreditation. Under this law, the National Council for Academic Assessment and Accreditation [hereinafter "NCAAA"] is given responsibility for all aspects of evaluation and accreditation. The NCAAA is involved in the authorization of provisional functioning, accreditation, and periodic assessment of institutions of higher education and programs of study. In terms of provisional functioning, any institution which offers a new educational program or establishes a new faculty or college must apply for provisional licensing from the NCAAA. This is also true for existing institutions that wish to extend their activities to a new field, or institutions that wish to be accorded university status. Before a provisional license is granted, an assessment of the program, faculty or college and institution as a whole is done. Based on this assessment, NCAAA makes a report proposing the program for provisional licensing. Accreditation applies to provisionally licensed programs that meet all of the criteria and standards of the law during the period of provisional licensing. Finally, NCAAA conducts periodic assessment that applies to all universities and their faculties, colleges and programs. Periodic assessments are conducted every five years. If the university fails to meet the required standards, they can be given time to ameliorate the problems, or if they fail to do so, the NCAAA can recommend to Parliament that

⁷² CEE Network, Romania Report. Available at http://www.ceenetwork.hu/r_romania.html (last visited 9 May 2005).

the university be dissolved.

In Russia,⁷³ until August of 1996, two State level bodies were in charge of managing and administering the education system in the Russian Federation.⁷⁴ The first was the Ministry of Education of the Russian Federation, which was “in charge of the elaboration and implementation of state policy in the field of pre-school, general, and vocational education as well as of complementary education at the corresponding levels”.⁷⁵ The second was the State Committee for Higher Education, which was responsible for “the elaboration and implementation of state policy in the field of post-secondary education: non-university and university level higher education, doctoral studies, as well as of complementary education at the corresponding levels”.⁷⁶ In 1996-97, these two bodies were merged into the Ministry for General and Professional Education of the Russian Federation and the Accreditation Board of the Ministry of Education of the Russian Federation [hereinafter “AB”] was created.⁷⁷ The Ministry for General and Professional Education is in charge of identifying the federal components of the State education standard and the AB is in charge of evaluation procedures and recommends accreditation to the Ministry of Education. The procedure of state approval consists of three stages: licensing, attestation (evaluation), and accreditation. The procedure for licensing of higher education institutions is determined by the *Decision of the Government of the Russian Federation on Approval of the Regulation on Licensing of Educational Activity*, which was ratified on 18 October 2000.⁷⁸ The procedure of state accreditation of higher education institutions is determined by the *Regulations of Accreditation of a Higher Education Institution*, which was ratified by the government on 2 December 1999. To simplify the procedure the Russian Ministry of Education consolidated the process into a process known as “complex assessment” effective on 1 January 2000. In addition, the *Order of the Ministry of Education of the Russian Federation #2846* (July 23, 2002), “On the results of Random Control of Fulfillment of Licensing Requirements and State Educational Standard of Higher Professional Education for Educational Programs in the Area of Economics, Management, and Law” also modified the process.⁷⁹ The steps for accreditation in Russia consist of licensing, database collecting of all higher education institutions, self-evaluation, external review, benchmarking (the Final Report), and an accreditation decision.

In Slovakia,⁸⁰ a Law on Higher Education was adopted in 1990 and a new Higher Education Act went into effect on 1 April 2002.⁸¹ The new Law takes away faculty’s legal entity

⁷³ CEE Network, Russia Report. Available at http://www.ceenetwork.hu/r_russia.html (last visited 9 May 2005).

⁷⁴ Russian Federation, LAW ON EDUCATION OF THE RUSSIAN FEDERATION #3266-1, *supra* note 10 at art. 33 (18).

⁷⁵ ACE, ENIC and NARIC Working Groups, *Mutual Recognition of Qualifications: The Russian Federation and the Other European Countries*. Compiled by Dr. Oleg Kouptsov (Bucharest, 2000) Sect. 5.

⁷⁶ *Id.*

⁷⁷ Russian Federation, LAW ON HIGHER AND POST-UNIVERSITY PROFESSIONAL EDUCATION OF THE RUSSIAN FEDERATION, *supra* note 10 at arts. 10, 11 et seq.

⁷⁸ Russian Federation, Decision of the Government of the Russian Federation on Approval of the Regulation on Licensing of Educational Activity #796 (October 18, 2000). Available at <http://zakon.kuban.ru/private3/pp796.htm> (last visited 4 April 2006).

⁷⁹ Christina Turturica, Law School Accreditation in the NIS, *supra* note 10.

⁸⁰ CEE Network, Slovakia Report. Available at http://www.ceenetwork.hu/r_slovakia.html (last visited 9 May 2005).

⁸¹ Slovakia, Law on Higher Education and on Amendments and Supplements to some Laws No. 131 February 2002.

status and gives it only to higher education institutions. The 2002 Law also changes some of the responsibilities of the Accreditation Commission and states that the Minister of Education must approve the AC's regulations and standards. The AC is tasked with evaluating the capacity of institutions to implement programs, expressing opinions on establishing an institution, defining the type of an institution (university, non-university, and research university), and conducting complex accreditation of higher education institutions. Essentially, the AC serves as the advisory body to the government. In Slovakia, accreditation is compulsory with a distinction between program and institutional accreditation. Program accreditation is granted indefinitely, but as complex institutional accreditation is conducted every six years it is effectively done every six years. The evaluation and accreditation process is run by the AC using two groups of criteria introduced in 2004. The first group of criteria includes the level of research activities, the institutional holdings and capacity (library etc.), the qualifications research/teaching activities of staff, student-teacher ratio, and structure of examinations. The second group of criteria include whether the study program is adequate for the degree to be earned, the relevance of the length of study, assessment of final thesis requirement, entry exams, and overall level of demand on students.

In Slovenia,⁸² the Accreditation Commission [hereinafter "AC"], consisting of 19 members, is responsible for conducting evaluations and recommending accreditation to the state. The AC was founded in 1996 and reorganized in 2000. The tasks and duties of the AC are defined in the Higher Education Act. Essentially, the AC is tasked with coordinating the activities of higher education institutions, developing self-evaluation methodology, enhancing awareness of quality assurance, influencing harmonization with the universities in the EU as part of the Bologna Process, and collecting and disseminating information. The AC works under the regulations and standards determined by the Council for Higher Education of Slovenia in cooperation with the Council for Sciences and Technology of Slovenia. The AC is obligated to report annually about the state of quality in higher education to these Councils. The AC asked the Ministry of Education, Science and Sport to revise the Higher Education Act in 2003 and the Ministry proposed changes to the Parliament and Government in 2004 which adopted the changes. The main change was the establishment of the Quality Assurance Agency to harmonize quality assurance mechanisms with the EU.

Quality assurance, evaluation and accreditation in the NIS region are also largely state-controlled. With the collapse of the Soviet Union in 1992, NIS countries began to adopt new legislation for their higher education systems. In most of the former Soviet Republics, institutions of higher education, both public and private, must obtain a license from the Ministry of Education, authorizing them to provide higher education services and award diplomas, degrees and other evidence of qualifications. The process of licensing begins when an institution submits documents to the licensing authority including a detailed description of the educational program and curricula, details on institutional capacity, information on faculty qualifications and degrees held, and details on the institutions financial viability. Next, the licensing authority reviews the application documents and makes a decision to license or not. If an application is

Available at http://www.education.gov.sk/igrsvs/igr_doc_20020630_1a_Law_on_HE_25062002_WEB.zip (last visited 9 May 2005).

⁸² CEE Network, Slovenia Report. Available at http://www.ceenetwork.hu/r_slovenia.html (last visited 9 May 2005).

denied, the licensing authority should provide details of the reason why and the applicant can resubmit an application along with evidence of how the institution has ameliorated the problems identified by the licensing authority. If a license is issued, it will specify the fields of study the institution is licensed to offer and the degrees the institution can confer.

Once an institution is licensed it will then undergo evaluation and, if it wants, can seek accreditation. Until 2001, there was a considerable difference in methodologies regarding evaluation and accreditation of licensed higher education institutions, which created problems not only for uniformity and quality assurance within each country, but posed serious problems for recognition and mobility within the NIS region. To address this problem the Member States of the Commonwealth of Independent States⁸³ [hereinafter “CIS”] signed the Agreement on Coordination of Works in the Area of Licensing of Educational Activity, Evaluation and Accreditation of Educational Institutions⁸⁴ on 29 November 2001 [hereinafter “CIS Agreement on Licensing, Evaluation and Accreditation”], which establishes guidelines for evaluating and accrediting higher education institutions. The CIS operates under an *Agreement on the Creation of an Economic Union* signed in September 1993, which is designed to form a common economic sphere based on the free movement of goods, services, labor, and capital. Licensing, evaluation and accreditation in the CIS is dictated by several pieces of legislation: the CIS *Cooperation Agreement in the Area of Education* (1992); the CIS, *Cooperation Agreement for Establishment of a Single (Common) CIS Education Space* (1997); and the CIS, *Procedure for Carrying out the Evaluation and Accreditation of Education Institutions of CIS Member States* (2001).

The actual process of evaluation and accreditation in the CIS region involves evaluation, accreditation and state accreditation.⁸⁵ Evaluation is the mechanism for quality assurance in the CIS. Essentially, evaluation is designed to assess the degree to which the institution’s programs of study comply with the countries higher education standards legislation adopted by the NIS Ministers responsible for higher education. This includes an assessment of the institution’s capacity, entrance examinations, the curricula and syllabi relating to the programs of study, standards for skills and competencies of law graduates, number of hours required for each course and program of study, the system of examination, faculty qualifications, and the existence of practical skills courses. The evaluation process is a two-stage process. First, the higher education institution performs a self-evaluation. Second, the higher education institution is subjected to an external evaluation by an expert committee. The expert committee then reviews the self-evaluation report, visits the institution, and drafts a report for the Ministry of Education’s department of evaluation and accreditation. Based on the expert committee report and recommendation, the Ministry of Education either grants or refuses accreditation.

⁸³ The Commonwealth of Independent States was created in December 1991. The CIS unites Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine. See <http://www.cisstat.com/eng/cis.htm> (last visited 28 July 2005).

⁸⁴ Commonwealth of Independent States, *Procedure for Carrying out the Evaluation and Accreditation of Education Institutions of CIS Member States* (2001). Available at <http://web.minedu.unibel.by/center/index.php?module=subjects&func=viewpage&pageid=168> (last visited 4 April 2006).

⁸⁵ *Id.*

Accreditation in the countries of the CIS is available to licensed higher education institutions that have been evaluated and recommended for accreditation. The process involves the higher education institution submitting a formal request to be accredited, a copy of its license from the state to render higher education services, a copy of both the preliminary and final decision of the evaluating committee, and a copy of the evaluation certificate indicating which programs of study have been approved by the evaluation. If the higher education institution is in full compliance with the standards prescribed by legislation and required for each program of study, then the Ministry of Education's department of evaluation and accreditation will approve accreditation.

C. National Accreditation Frameworks

Accreditation in the United States is divided between the States, which are responsible for accrediting primary and secondary school level institutions within their jurisdiction, and regional or national accrediting agencies, such as the ABA, which are independent and non-governmental. However, the US Department of Education is involved to a slight degree in that it publishes a list of national accrediting agencies, which are viewed as competent authorities for assessing the quality of higher education institutions and programs of study, by the Secretary of Education.⁸⁶ The main body which coordinates and oversees the activities of accrediting agencies is the Council on Higher Education Accreditation⁸⁷ [hereinafter "CHEA"], a non-governmental agency created in 1997. CHEA is responsible for overseeing accreditation agencies, collecting and disseminating information about regional, national, and specialized accreditation agencies dealing with issues of quality assurance, initiating projects to enhance and strengthen accreditation standards and practices, and to serve as a national forum on accreditation issues. Despite CHEA and the limited role of the Department of Education accreditation of higher education institutions in the US remains an independent, self-regulating, voluntary process consisting of peer review and oversight by regional or national accreditation agencies.⁸⁸

The importance of obtaining accredited status is important in the United States. It indicates to would be students and employers that the higher education institution and its programs of study meet the quality assurance standards for the field and equally important accreditation enables students of an accredited higher education institution to apply for and receive federal student assistance administered through the U.S. Department of Education, under Title IV of the Higher Education Act of 1965.⁸⁹

⁸⁶ United States, Office of Post-Secondary Education of the U.S. Department of Education, *National Recognition of State Approval Agencies by the U.S. Department of Education*. Available at <http://www.ed.gov/about/offices/list/ope/index.html> (last visited 13 May 2005).

⁸⁷ For detailson the CHEA see www.chea.org (last visited 8 May 2005).

⁸⁸ Critics of the voluntary accreditation system in the United States argue that the system is too complex and not transparent. In particular, rectors and vice-chancellors have questioned whether the US accreditation process is discriminative enough and truly conducive to quality assurance and improvement.

⁸⁹US, HIGHER EDUCATION ACT, Title IV. Available at <http://edworkforce.house.gov/publications/heacomp/hea65002.pdf> (last visited 13 May 2005).

The process of accreditation in the United States involves both institutional and programmatic accreditation. Institutional accreditation involves an assessment by an institutional accrediting agency. The accrediting agency assesses whether the higher education institution meets the quality assurance standards established by the agency. The institutional accreditation process involves a self-evaluation by the higher education institution, an on-site assessment visit by a team of experts selected by the accreditation agency, publication by the accreditation agency of its findings, and periodic re-evaluation of the quality of the higher education institution and its programs of study. In the United States there are regional and national accreditation agencies or associations.⁹⁰ Programmatic accreditation assesses the quality of education and compliance with the standards established by the accrediting agency of specific programs of study offered by a higher education institution.

In terms of law school accreditation, the Council of the Section of Legal Education and Admissions to the Bar [hereinafter “CSLEA”] within the ABA is the national accreditation agency responsible for accreditation of law schools and their programs. CSLEA is authorized to serve in this capacity by the U.S. Department of Education. CSLEA assesses the quality of law school programs based on the *ABA Standards for Approval of Law Schools*⁹¹. The ABA promulgated its first set of Standards in 1921 and major revisions were made in 1973, 1996, 2000 and lastly in 2003. The Preamble to the ABA Standards for Approval of Law Schools, which is meant to serve as a “mission statement”, states that:

“The Standards for Approval of Law Schools of the American Bar Association are founded primarily on the fact that law schools are the gateway to the legal profession. They are minimum requirements designed, developed, and implemented for the purpose of advancing the basic goal of providing a sound program of legal education. The graduates of approved law schools can become members of the bar in all United States jurisdictions, representing all members of the public in important interests. Therefore, an approved law school must provide an opportunity for its students to study in a diverse educational environment, and in order to protect the interests of the public, law students, and the profession, it must provide an educational program that ensures that its graduates:

- (1) Understand their ethical responsibilities as representatives of clients, officers of the courts, and public citizens responsible for the quality and availability of justice;
- (2) Receive basic education through a curriculum that develops:
 - (i) Understanding of the theory, philosophy, role, and ramifications of the law and its institutions;
 - (ii) Skills of legal analysis, reasoning, and problem solving; oral and

⁹⁰ For a list of the regional and national accreditation agencies and the database of accredited institutions maintained by each and the Department of Education see <http://ope.ed.gov/accreditation/Search.asp> (last visited 13 May 2005).

⁹¹ ABA, *Standards for Approving Law Schools* (2005). Available at <http://www.abanet.org/legaled/standards/standards.html> (last visited 4 April 2006).

written communication; legal research; and other fundamental skills necessary to participate effectively in the legal profession;

(iii) Understanding of the basic principles of public and private law; and

(3) Understand the law as a public profession calling for performance of pro bono legal services.⁹²

There are eight chapters of the ABA Standards for Approval of Law Schools. For the purposes of this paper, I will address the most relevant pertaining to accreditation. Standard 101 BASIC REQUIREMENTS FOR APPROVAL states that “[a] law school approved by the Association or seeking approval by the Association shall demonstrate that its program is consistent with sound legal education principles. It does so by establishing that it is being operated in compliance with the Standards”.⁹³ To enable the Accreditation Committee and Council to determine whether a law school has demonstrated that its program of legal education is consistent with sound legal education principles and is being operated in compliance with the ABA Standards for Approval of Law Schools, law schools are required to supply an annual questionnaire, self-study, site evaluation questionnaire, and other information required by the Accreditation Committee and Council.

If a law school meets Standard 101 they may seek provisional approval as long as they have been operating for a minimum of one year. Standard 102 PROVISIONAL APPROVAL states that:

(a) A law school is granted provisional approval if it establishes that it is in substantial compliance with each of the Standards and presents a reliable plan for bringing the law school into full compliance with the Standards within three years after receiving provisional approval.

(b) A law school that is provisionally approved may have its approval withdrawn if it is determined that it is not in substantial compliance with the Standards or if more than five years have elapsed since the law school was provisionally approved and it has not qualified for full approval. In extraordinary cases and for good cause shown, the Council may extend the time within which the law school shall obtain full approval.

(c) A law school shall confer the J.D. degree contemporaneously with the time academic requirements for the degrees are completed.⁹⁴

The first step a law school must take for provisional certification is to submit to the Council a self-study questionnaire, which describes the law school and programs of study, identifies the school’s strengths and weaknesses, establishes goals for future progress, and

⁹² *Id.* at Preamble.

⁹³ ABA, Standards for Approval of Law Schools, *supra* note 91 at Standard 101.

⁹⁴ *Id.* at Standard 102 (a-c).

explains how it will attain those goals. According to Standard 202 SELF STUDY:

- (a) The dean and faculty of a law school shall develop and periodically revise a written self study, which shall include a mission statement. The self study shall describe the program of legal education, evaluate the strengths and weaknesses of the program in light of the school's mission, set goals to improve the program, and identify the means to accomplish the law school's unrealized goals.
- (b) The self study shall address and describe how the law school's program of legal education conforms to the requirements of Standards 301(a) and (b).⁹⁵

Once the ABA Accreditation Committee receives all of the necessary documents from the applicant law school, it designates a team to visit the school and perform a three-day on-site evaluation. The evaluation team then prepares a report describing the law school and submits it to the ABA Office of the Consultant, which reviews the report and sends it to the Accreditation Committee. The Accreditation Committee reviews the report and makes a recommendation to the Council on granting provisional accreditation. If the law school receives provisional accreditation, it maintains that status for at least three and no more than five years. During this time, the law school is monitored continuously by evaluation teams, who visit the law school once a year and prepare a report for the ABA Accreditation Committee. The ABA Accreditation Committee reviews these reports and notifies the law school of the findings and identifies the areas needing improvement.

Full accreditation can be sought by a law school after it has been provisionally accredited and has demonstrated that it is in full compliance with all of the ABA Standards for Approval of Law Schools. The process for full accreditation is contained in Standard 103 FULL APPROVAL, which states that:

- (a) A law school is granted full approval if it establishes that it is in full compliance with the Standards and it has been provisionally approved for not fewer than two years.
- (b) If a determination is made that an approved law school is no longer in compliance with the Standards, and if it fails to take remedial action, the law school may be subjected to an appropriate sanction.⁹⁶

Evaluation of a fully accredited law school is conducted onsite in the third year after full accreditation is granted and subsequently every seven years.

In addition to accreditation, the ABA Section of Legal Education and Admission to the Bar, in accordance with Standard 307 PARTICIPATION IN STUDIES OR ACTIVITIES IN A FOREIGN COUNTRY, which states that “[a] law school may grant credit for student participation in studies or activities in a foreign country only if the studies or activities are

⁹⁵ *Id.* at Standard 202 (a) and (b).

⁹⁶ ABA, Standards for Approval of Law Schools, *supra* note 91 at Standard 103 (a) and (b).

approved in accordance with the Rules of Procedure and Criteria as adopted by the Council”⁹⁷ and Interpretation 307-1, which states that “[i]n addition to studies or activities covered by Criteria adopted by the Council, a law school may grant credit for (a) studies or activities in a foreign country that meet the requirements of Standard 305 and (b) brief visits to a foreign country that are part of a law school course approved through the school's regular curriculum approval process”⁹⁸ has addressed the issues of study at a foreign institution⁹⁹; semester abroad program criteria¹⁰⁰; and foreign summer programs.¹⁰¹

Conclusion

As this paper demonstrates, current national accreditation standards need to be reformed to conform to international and regional agreements and obligations. To achieve this goal, increased accreditation and quality assurance capacity building at the national and regional level is needed to promote increased quality assurance, transparent and rigorous accreditation standards and to facilitate the recognition of qualifications and, therefore, the mobility of legal professionals. Given the lack of uniformity among various national accreditation regimes it will only be through the strengthening of national and regional standards and cooperation measures that an international framework can be established.

In addition, this paper reveals that in addition to mobility issues related to GATS, there are problems related to credit transfer and accumulation; the joint development of programs by higher education institutions from different countries; continued problems with international recognition of degrees; higher education institutions escaping national quality assurance and accreditation procedures by operating internationally; transnational delivery of higher education; new commercial and private of higher education; and the development of distance education, electronic delivery modes and virtual campuses and universities.¹⁰² Essentially, national accreditation frameworks are not well suited to handle these developments and challenges as most national accreditation and quality assurance frameworks lack transparency and uniformity making it difficult for parties outside of the framework to gauge the quality of education. As such, harmonization of quality assurance and accreditation standards under strengthened national systems and regional cooperation and agreements under an international framework are needed.

⁹⁷ *Id.* at Standard 307.

⁹⁸ *Id.* at Interpretation 307-1.

⁹⁹ ABA, Section of Legal Education and Admissions to the Bar, *Criteria for Student Study at a Foreign Institution* (adopted 2/28/2003 effective 8/1/2003). Available at <http://www.abanet.org/legaled/accreditation/foreignprogramtf/studentstudycriteria.doc> (last visited 13 May 2005).

¹⁰⁰ ABA, Section of Legal Education and Admissions to the Bar, *Semester Abroad Programs-Revised Criteria* (2003). Available at <http://www.abanet.org/legaled/accreditation/foreignprogramtf/semesterabroadprogramcriteria.doc> (last visited 13 May 2005).

¹⁰¹ ABA Section of Legal Education and Admissions to the Bar, *Foreign Summer Programs-Revised Criteria* (2003). Available at <http://www.abanet.org/legaled/accreditation/foreignprogramtf/foreignsummerprogramscriteria.doc> (last visited 13 May 2005).

¹⁰² IAUP, Memo for the Commission on Global Accreditation, *supra* note 4.

This can be accomplished through mechanisms that enable transparency and uniformity in national accreditation standards and which can then be used to increase the exchange of criteria and standards in an international framework. Furthermore, this paper shows that although some have argued for a single international accreditation agency for higher education it is not feasible given the multitude of national systems currently in place. Finally, this paper shows that a single international accreditation agency could potentially undermine the autonomy of institutions and the accreditation bodies responsible for accreditation, thereby, diminishing the diversity of the current system.