

Robert Schuman Centre for Advanced Studies

Towards a European Area of Higher Education:
Change and Convergence in European Higher Education

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Introduction*

In May 1998, the Ministers responsible for higher education in France, Germany, Italy, and the United Kingdom met to celebrate the Sorbonne university's eight hundredth anniversary. In the course of the celebration and a concurrent conference, they signed a "Joint declaration on harmonisation of the architecture of the European higher education system" ("Sorbonne Declaration"). Starting by confirming that "Europe is not only that of the Euro, of the banks and the economy" but that of knowledge and culture as well, the document advocates an open European area of higher education and progressive harmonisation of the overall framework of degrees and cycles. The four Ministers commit themselves "to encouraging a common frame of reference, aimed at improving external recognition and facilitating student mobility as well as employability."

The document has gained much public attention and has been presented as a major turning point in European higher education, though there has been much confusion about its significance and content. The most common interpretation has been that finally, after a long period of distinct developments, higher education structures in Europe are to be harmonised, which will enhance free movement of students and teachers and free choices of study and work places. Frequently comments as well as the declaration itself have turned to the picture of medieval university life as an ideal, when – as described in the Sorbonne Declaration - "students and academics would freely circulate and rapidly disseminate knowledge throughout the continent."

A year later the Sorbonne Declaration was followed by a "Joint Declaration on the European Higher Education Area". In June 1999, Ministers for education from 29 European countries met in Bologna to sign this document which widened the group of signatories and stated more explicitly the policies to be adopted to establish the European area of higher education. The document sets a time frame for achieving its objectives and includes an agreement by the signatories to meet again within two years in order to assess progress. Implementation of the Bologna Declaration in the individual signatory states is referred to as the "Bologna Process".

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These developments seem to contradict the traditional resistance of the EU Member States to any harmonisation policy in education and to increased Community competences. The exclusion of education from harmonisation policies was underlined again some months after the adoption of the Bologna Declaration, in March 2000, when the European Council in Feira set new strategic goals for the Union in order to promote employment, economic cohesion; it agreed to include “establishing a European Area of Research and Innovation” but did not agree on “establishing a European Area of Education”. One must bear in mind, however, that the Feira document refers to “all education”; whereas the Sorbonne and Bologna Declarations are restricted to higher education. The sectors of the education system differ with regard to their internal/external orientation. Traditionally, higher education has been linked with the idea of international cooperation and therefore there may be ripe for Europeanization.

To explain the action of the four Ministers and subsequent developments in higher education, this paper examines how the Sorbonne Declaration came about and what its impact has been so far. More specifically:

1. What was the situation in higher education in Europe prior to the Sorbonne Declaration? Had there already occurred an approximation of the national systems before the Ministers made it a goal? If so, what were the driving forces in such a harmonisation process? To what extent have economic and to what extent have specific EU education policies enhanced approximation? Was there a move towards convergence prior to any European Union education policy or has it been the other way round, has convergence been brought about by EU policy making?
2. What were the Ministers’ actual motives in determining to harmonise higher education? Were there external or internal pressures on national policy makers? Did they strengthen their cooperation in order to make changes in higher education which they thought necessary but difficult to obtain at the national level? What is the current status of the Sorbonne Declaration and how has it affected further developments in European higher education?
3. To what extent has higher education changed in the process of convergence and what have become its major features? What is its substance?

To address these questions, the paper looks at:

- Developments and changes in national higher education systems since the seventies.
- Community activities in higher education during the same period.
- The drafting and content of the Sorbonne Declaration.
- Effects and consequences of the Sorbonne Declaration, i.e. Bologna Declaration and Process.

The aims of the study are twofold, namely to discuss

- Decisive steps in the Europeanization of higher education and the roles of different actors.
- Substantive changes in European higher education which have evolved out of this process.

National Policies in European Higher Education Since the Seventies

In European countries, student numbers have massively expanded since the 1960s. Time lags have existed between the countries with regard to when the most significant expansions occurred and how massive they were, but by now all EU Member States have moved from an elite sector into one with mass participation, some even to what has been called universal system of higher education,¹ transforming all systems fundamentally.

The increases in student numbers, higher education institutions, and study programmes have been accompanied by a series of reforms and laws concerning the organisation, funding, and control of higher education. Although there are national differences and laggards, two distinct periods in the reform process may be observed. The first coinciding with the initial wave of expansion in the 1960s and 1970s and the second coinciding with the last two decades of the 20th century, when the increase in students has continued and in some countries even reached its peak.²

In the *1960s and 1970s* the demands of the economy and rising educational aspirations coincided. Two approaches were developed to explain the need for an expansion of higher education. The manpower requirement approach argued that there was a need for more highly qualified personnel due to rapid economic and technological change, whereas the social demand approach based its argument on the wish to increase educational opportunities for a larger portions of the population. Higher education was of prime importance to the economy and society and therefore generally perceived as a

public good. Policy targets included broadening access to higher education, diversifying programmes, promoting institutional differentiation, and democratising of university management. Budgets for higher education rose, fees were mostly abolished, and grant systems were generous.

In this period of expansion and reform, comparative studies in higher education increased and international organisations, notably the OECD, facilitated an exchange of experiences. The manpower approach and the inclusion of higher education in international economic debates strengthened the economic dimension of higher education and put an end to a time when it was seen primarily as a part of national culture.³

Research on this period tends to point to the “conservatism” of national systems which, despite massive expansion, remained distinct and kept their particularities.⁴ This is in contrast to some projections of the 1960s which expected that expansion would lead to convergence. One must bear in mind, however, that most governments stimulated this expansion; it resulted in more governmental planning and control in higher education, which in turn reinforced national administrative and cultural characteristics. In addition, during the 1960s and 1970s the European countries were economically in a position to cope to a large extent with new demands on higher education without radically changing their traditional systems.

In the *1980s and 1990s* the expansion of higher education has developed its own dynamic which public policies and budgets can hardly influence. The demand has remained high and even increased in some countries; there is no longer a need for state incentives to increase participation.⁵ Hence higher education has ceased to be perceived as a public responsibility and a private right. Instead it has come to be understood as a private benefit and responsibility. The changed economic climate has also enhanced the shift from higher education as a public good to an emphasis on individual rates of return. As a consequence, some countries have started to introduce tuition fees.

Budget constraints have changed the relationship between governments and higher education institutions. In Europe, most universities are state or quasi state institutions and have been administered according to national legal and bureaucratic traditions. Restrictions on public spending increase the importance of non-state sources of income and weaken and undermine the traditional governmental steering mechanism. Whether or not higher education is perceived as an activity of the welfare state,⁶ it seems to share in at least part of its development. The pressure to control costs, and the belief that this can best be achieved by making universities more responsible and accountable, has encouraged governments to deregulate their detailed control of higher education.

Some observers describe this process as a move from the “interventionary state” to the “facilitatory state”.⁷ Others call it the move from the state as provider to the state as regulator and purchaser.⁸ It means, too, that the state controls output instead of input.

Although European higher education has remained substantially publicly funded, governments have encouraged universities to look for alternative sources of income and to improve their competitiveness. The entrepreneurial university⁹ has emerged.

The relationship between the state and universities differs among EU Member States. In the last decades of the 20th century, however, it has generally become a more distant one. Governments have adopted policies to promote institutional autonomy, outsourcing, or denationalization. Universities have ceased to be just another part of the national administrations. The gradual organizational transformation of public into “private” has now reached all European higher education systems.

In contrast to the policy changes in steering higher education and in access, there is no obvious difference between the two periods concerning the structure and content of courses. Throughout the last four decades, the most important curricular development in European higher education has been a shift from an academic and professional orientation to a focus on the needs of industry and the employment sector. This shift has been propelled by the manpower approach, strengthened by an up-grading of new areas, and further supported by the conviction that the highly theoretical, academic courses traditionally offered by universities do not suit the needs of expanding student numbers. The establishment of a non-university sector has promoted the creation of more practice-related, vocationally-oriented courses.¹⁰ And, since the 1980s, the vocational orientation has spilled over into universities.¹¹

Concerning the length and structure of courses, as well as the organisation of teaching and learning, the national systems have shown no or only little approximation. The difficulty of change in these area can be linked to the reduced governmental influence and dependence on the active cooperation of academics. Whereas patterns and financing of higher education are dictated by governments, issues of curricula are in the hand of academics. Here changes occur differently and only rarely through state intervention.¹²

One would, however, have expected some change. In many countries (Austria, France, Germany, and Italy among others) the organisation of studies has been a matter of concern for many years. Influenced by the manpower approach and a growing emphasis on the economic performance of higher

education institutions, systems with loose organisation of study have been criticised for excessive duration of studies and high drop-out rates. Since the 1960s, most reform efforts in countries with such systems have been motivated by this “wastage”, but with little result. Obviously, the obstacles to change have been stronger than pressures for reform. In these countries a loose organisation of study is seen as the very core and distinctiveness of university study. “Freedom of teaching” and “freedom of learning” are interpreted as the legal guarantees. Both teachers and students enjoy their loose relationship and the low level of mutual responsibility. Governments, too, seem reluctant to change, since it might make it more difficult to deal with the massive expansion in student numbers. In addition, university systems that allow students to study at different speeds and intensities, and to continue for an almost unlimited time, may be regarded as a means to reduce pressure on a changing and at times unfavourable academic labour market.

Community Policies in Higher Education Prior to the Sorbonne Declaration

Research has been done on EU education policies, in part because they offer a case study on the expansion of Community competences,¹³ one which even has the advantage of offering evidence for every integration theory. Furthermore, directives concerning the recognition of diplomas are of interest to implementation research.¹⁴ And finally, education serves as a topic for studies that deal with the “Europe of the citizen” or “European identity”.¹⁵

This section of the paper focuses on the question of what Community measures have furthered an approximation of the national systems. Three decisive steps are identified and discussed: The directives on the mutual recognition of diplomas, certificates, and other evidence of formal qualifications; the Gravier case; and the ERASMUS programmes. It will be argued that the directives on the mutual recognition of diplomas were a first step towards an approximation of the course length, that the Gravier case established the basis for student mobility, and that the ERASMUS programmes have equipped the Community with funds to enhance mobility and to pursue a higher education policy. All three steps were taken before Article 126 EC, as adopted by the Maastricht Treaty, explicitly established a Community responsibility in education.

In the original treaties, the term “education” is missing. They include, however, provisions concerning two areas that are closely linked to education, namely “vocational training” and “diplomas, certificates and other evidence of formal qualification”. Additionally, the Treaty establishing the European Atomic

Energy Community provides for the establishment of a university-like institution.

The definitions of education and training became increasingly blurred after the Treaties were established, but the borderline between the two concepts has never been unanimously defined and accepted. Certification of formal qualifications is an important business and right of education institutions. In some areas they even enjoy a monopoly status. It could therefore be expected that Community law on vocational education would spill-over into university education, though it was uncertain to what extent the originally limited provisions would influence education and which area of education would be the most effected.

The term “training” is used twice: once in Article 118 EEC which gave the Commission the task of promoting closer co-operation between the Member States in the social field, including basic and advanced vocational training, and again in Article 128 EEC, which provided that the Council, acting on a proposal from the Commission and after consulting the Economic and Social Committee, is to lay down “general principles for implementing a common vocational training policy capable of contributing to the harmonious development both of the national economies and the common market.” The relevant provisions were established in 1963¹⁶ and state that “the general principles must enable every person to receive adequate training, with due regard for freedom of choice of occupation, place of training and place of work.”

Free movement of persons and services prohibits restrictions on the employment and on the right to establishment of citizens of a Member state other than those regulating the employment or the activities of self-employed persons of nationals. The relevant provisions may include the requirement of evidence of a formal qualification. The mutual recognition of diplomas and certification within the Community is therefore a precondition for effective free movement. Article 57 EEC gave the Council the power, “in order to make it easier for persons to take up and pursue activities as self-employed persons....to issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualification”.¹⁷

The implementation of Article 57 proved to be time consuming. In 1974 the Council adopted a resolution¹⁸ on the mutual recognition of diplomas, certificates and other evidence of formal qualifications in which the linkage between the freedom of establishment and services, on the one hand, and the mutual recognition of qualifications, on the other hand, are underlined. Mutual recognition is intended to have an impact on national education policies, which are in turn expected to contribute to the realisation of the freedom to

establishment and services. In 1975, the first directive was adopted. It dealt with the recognition of diplomas in medicine and health professions.¹⁹ Directives on dentistry²⁰ and veterinary medicine²¹ followed in 1978, and on pharmacy²² and architecture²³ in 1985. They were accompanied by “co-ordination directives”, in which national study programmes were harmonised to a varying extent and which limited national education policies.²⁴

In the literature discussing the development of an EU education policy, these directives are sometimes not mentioned at all or are judged to have had a marginal impact. It may, however, also be argued that their influence on higher education is not to be neglected. First, they have led to a harmonisation of curricula of courses that prepare students for regulated professions, critical fields in which the nation states basically determine the content. These fields have been key domains in higher education. Second, the directives have made national higher education systems aware that European integration might affect them. And finally, the process of drafting and implementing the directives has been a learning process for all involved, including the Commission, on the feasibility and value of harmonising higher education curricula in detail.

Concerning the latter point, experience provided that the “vertical” approach - harmonising the curricula profession by profession - is time consuming.²⁵ In addition, the fact that hitherto all directives had concerned sciences which were to a larger extent for discipline reasons internationally already more harmonised than e.g. the humanities, might have enhanced the search for a new solution.²⁶ In 1988, when the Directive 89/48/EEC was adopted for a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years’ duration,²⁷ the “vertical” approach was replaced by a “horizontal” one. This directive applies to all subjects and allows EC citizens holding a higher education diploma to practice their professions in any EC state. In cases of important differences in education or in organisation of a profession, the host country may require evidence of prior professional experience or an additional training period or aptitude test.

The consequences of Directive 89/48/EEC on higher education in general have been more visible than those of the “vertical” Directives. In the first place, the three year requirement for recognition has given rise to discussions and reforms. Some countries with courses shorter than three years have been required to upgrade them to fall in line with the Directive.²⁸ Other countries,²⁹ which previously used only secondary level training for certain professions, have been required to develop new higher education courses. There have also been a lot of uncertainties about the Directive, e.g., do internships form part of the three years or not, may the recognition of prior learning shorten the three

years, etc. It has stimulated national systems to pay more attention to higher education in other Member States and to make comparisons. Directive 89/48/EEC, however, does not address any specific profession. As a result, the recognition for professional purposes has been mixed up frequently with the “value of degrees” or with academic recognition.³⁰ Systems with a long duration of studies have become increasingly aware that the nation state may no longer protect them from competition and that their graduates may face competitive disadvantages. The Directive has enhanced discussions on the adequacy of varying lengths of courses and on different study structures within Europe.

Directives on the recognition of diplomas, notably Directive 89/48/EEC, have established the issue of curricular differences and similarities in the Community. The European Court of Justice (ECJ) developed the right to free movement of students and hence added another precondition for a European area of higher education.

In this context, the Gravier case³¹ has been the most significant. Gravier was a French national who moved to Belgium to study strip cartoon, a four-year course of higher education at the Academie Royale des Beaux-Arts in Liege. Gravier was charged a registration fee by the Belgian authorities, one which was not imposed on Belgian students, and her right of residence was questioned.

The ECJ ruled that the imposition of a registration fee is a breach of Article 7 (principle of non-discrimination). It held that the common vocational training policy referred to in Article 128 of the Treaty is an indispensable element of Community activities and objectives, and that “access to vocational training is in particular likely to promote free movement of persons throughout the Community, by enabling them to obtain a qualification in the Member State where they intend to work and by enabling them to complete their training and develop their particular talents in the Member State whose vocational training programmes include the special subject desired.” Referring to Council Decision No. 63/266/EEC and to the “general guidelines” that the Council laid down in 1971 for drawing up a Community programme on vocational training, the Court then clarified that vocational training as being “any form of education which prepares for a qualification for a particular profession, trade or employment or which provides the necessary training and skills for such a profession, trade or employment is vocational training, whatever the age and the level of training of the pupils or students, and even if the training programme includes an element of general education.”

The ruling had two results. First, it established the right of EC students to equal access to higher education and the corresponding duty of the Member States to respect this right. Second, it qualified higher education as a part of vocational education and hence a Community responsibility.

The second mentioned point has been affirmed in further judgements.³² Concerning the first point, however, in subsequent rulings the ECJ set limits to the right of a Member State nationals to access to higher education in another Member State. Equal access means equal treatment regarding registration/tuition fees but does not embrace entitlements to grants or preferential loan systems set up to fund maintenance costs.³³ These limitations are to discourage students from moving to other Member States solely for attractive grants or loans. In contrast to its restrictive interpretation of access to support for migrant students, the ECJ has taken a different and more favourable view whenever migrant workers and their families are involved.³⁴ Further expansion of student migration coupled with more rigid fee regimes, however, may necessitate additional clarifications. Are EC students equally entitled to receive those grants or subsidised loans which are primarily intended to cover tuition fees? How are different national entry certifications to be ranked if there are a limitations on access to courses and additional qualifications for entry are therefore set up?

In the Gravier case, the ECJ did not address the argument that the provision of education, including public education, represents a service. The plaintiff and the Commission had argued that it does, and that discrimination on the grounds of nationality against recipients of services is contrary to Article 60 of the Treaty. The Advocate General dismissed this argument, basing his view on the fact that higher education is overwhelmingly publicly funded and on the non-profit-making character of state education. Education is therefore not a service subject to Article 60. He supported this view by referring to the provisions of Article 58(2), which excludes from the right to establishment companies or firms that do not aim to make a profit. In another instance,³⁵ the service argument was brought up again and the ECJ considered and rejected it for the case in question. It did not, however, exclude, that education may be a service, only that “courses given in an establishment of higher education which is financed essentially out of public funds do not constitute services within the meaning of Article 60 of the EEC Treaty”. This statement reflects the gradual increase of private funding of education, a further marketization of higher education may make it necessary to consider the service argument anew.

Some authors have argued that the Gravier case directly influenced the Council’s decision to adopt the Commission’s proposal for the ERASMUS scheme, a programme adopted in 1987 to support the establishment of a cooperation network between universities and to provide grants for students

pursuing a period of study at a university in another Member State. An organized mobility of students based on inter-University cooperation was to prevent uncontrolled and unevenly distributed student migration.³⁶

The drive to enhance mobility as a means to promote scientific developments in the Communities and to strengthen European coherence can be traced back to the 1950s³⁷ and has remained a topic of debates and reports on education ever since. This is because EU documents on education have been specially concerned about the education of elites.³⁸ Only at the beginning of the 1980s, when most Member State faced a massive expansion of youth unemployment, transition from education to working life and more recently, lifelong learning have enjoyed a comparable attention. The emphasis on universities stems also from the fact that in varying degrees, these institutions have always valued international cooperation. They are therefore an easier territory to Europeanise than other educational sectors. In the post World War II period, many bilateral agreements have been set up for a mutual exchange of academic staff and students, as well as for international networks.³⁹ “Mobility” is therefore a concept that is valued by both the economic and academic communities.

The ERASMUS programme was preceded by a Commission grant scheme for the support of joint study programmes and short study visits. This scheme had been set up on a pilot basis as a result of an Action Programme of 1976 in the field of education.⁴⁰ The grant scheme was judged successful.⁴¹ In addition, various reports and resolutions included academic mobility in their policy agenda, such as the Adonnino Report of 1985 (“People’s Europe”), the White Paper on the Completion of the Internal market (“the political, cultural and social dimension of the Community”), and the Resolution of the Council of 1988 (“European dimension in education”).⁴²

The first ERASMUS programme aimed at achieving a significant increase in the mobility of students and teachers within the Community and to promote greater cooperation between the universities. Objectives were to provide the Community with an “adequate pool of manpower with first hand experience of economic and social aspects of other Member States” and “to strengthen the interaction between citizens in different Member States with the view to consolidating the concept of a People’s Europe”. The greater cooperation of universities was to promote quality of education and hence contribute to the competitiveness of the Community. Three action lines are stated: establishment and operation of a network of universities that have agreed on an exchange of students and teachers and that recognise study periods thus accomplished; development of a student grant scheme; and the introduction of measures to promote academic recognition of diplomas and periods of study (European

Credit Transfer System - ECTS), along with complementary measures to promote student mobility; e.g. support for university associations, consortia and publications.

The ERASMUS Decision⁴³ was adopted unanimously by the Council. But the latter had changed the legal basis for adoption. The Commission had proposed to base the Decision on Article 128. The Council, however, added Article 235 (general “elastic” clause).⁴⁴ It maintained that the ERASMUS programme exceeded the powers conferred upon the Council by Article 128 as it was not restricted to vocational training but included education, too. In addition, Article 128 allowed only the establishment of general principles for implementing a common vocational training policy but not the imposition of legal obligations. The Commission brought an action for annulment before the ECJ, primarily to set a precedent and to defend the possibility of majority voting required by Article 128 against the unanimous vote requirement of Article 235.

In its judgment,⁴⁵ the ECJ reinforced its inclusive interpretation of vocational training in the Gravier and Blaizot cases. University studies fulfil the criteria of vocational training, with the exception of certain courses for persons wishing to improve their general knowledge, and “The mere possibility of the latter cannot justify the conclusion that the contested programme goes beyond the scope of vocational training and that therefore the Council was not empowered to adopt it pursuant to Article 128 of the Treaty.” Neither does the reference to the concept of a “People’s Europe” in the Decision exceed the scope of vocational training since the development of a common vocational policy “should be in keeping with the general objectives of the Community, such as the achievement of a People’s Europe.” Respecting the scope of the general principle, too, the ECJ supported the Commission’s broad interpretation of Article 128. However, it did see the necessity of broadening the legal basis for another reason. The Decision concerns universities, which not only offer higher education but also engage in research: “It is clear that scientific research is characteristically one of the proper functions of a university”. Since research has then not been covered by the Treaty (only later did the Single European Act add an new Article 130g EEC on research), the ECJ concluded that the research dimension of the Decision made it necessary to add Article 235.

The most interesting part of the judgement for the question of convergence in higher education concerns the ECJ’s view on the effects of university agreements. Does a university network which gives students of one university the opportunity to undertake a fully recognised period of study in another Member State affect national systems of higher education and does the development of joint study programmes do the same? The ECJ rejected the argument that inter-university cooperation will lead to changes in the status and

organisation of education and that the ERASMUS programme hence exceeds the scope of Article 128. Assessing that “the European university network will be composed of those universities which have chosen to conclude certain agreements for exchanges of students and teachers. Although it is true that it is for the Community to set up the network, universities may only participate on the basis of the provisions governing their status and organisation, which are not affected by the programme in question”. Not surprisingly, this view has been questioned from the very beginning,⁴⁶ and subsequent changes in national legislations have proved that the critics were right.

The first phase of the ERASMUS programme lasted from 1 July 1987 to 30 June 1990. It was followed by ERASMUS II, starting in 1990 and covering five years. During the first seven years, the Community spent approximately 424 million ECU on the programme, mostly on mobility grants for about 200.000 students. Although not reaching the 10 percent participation rate initially envisaged, ERASMUS is often regarded as the most visible success story among the educational programmes of the European Union... temporary student mobility has become a regular feature of higher education in Europe.’⁴⁷ There was, however, an uneven distribution of migrant students across Member States which changed only slightly over the years. The United Kingdom and Ireland continuously hosted a substantially higher number of students than they sent out, whereas Italy, Greece, and Germany sent more students abroad than they received. In France, the Netherlands, and Spain the balance between incoming and outgoing was roughly even.⁴⁸

But the ERASMUS programme’s ambitions extend beyond increasing the number of migrant students. Based on the experience of the Joint Study Programmes, its predecessor pilot programme, ERASMUS aims at stimulating “organised study” in other European countries. Emphasis is placed both on establishing courses with integrated study abroad elements and recognizing study abroad as a regular period at home institutions. The latter is the key criterion for granting financial support. The curriculum dimension of the programme is also underlined by the funding of a pilot scheme establishing a credit transfer system (ECTS). It is the question of recognition and curriculum development which has been identified as the most interesting and challenging task within future programmes.⁴⁹ It has been a focal point for discussions of convergence and a European higher education area. As will be seen, however, little progress was reported up to 1998.

From 1995 to 2000, the ERASMUS activities have been included, among other sub-programmes, in two broader SOCRATES programmes.⁵⁰ Since 1995 the new Article 126 on education had provided a more comprehensive legal basis. Actions concerning school and adult education can therefore be included.

ERASMUS has, however, remained the major sub-programme. The Decisions have been based on Article 149 (ex-Article 126) and Article 150 (ex-Article 127) which means that no decision had to be made whether the argument that higher education forms part of vocational training was still maintained or whether the inclusion of an article on education entailed that higher education was now qualified as education and what were the arguments for such a change. Interesting, too, that the Articles on research (Articles 163, 164) are not included as legal basis, although research had served as an argument for the ECJ to add Article 235 to the ERASMUS Decision.

The objective of the first SOCRATES programme is described in Article 1 and reflects the new Community competence in education: “This programme is intended to contribute to the development of quality education and training and the creation of an open European area for cooperation in education”. The objective is then split into nine specific aims. With regard to higher education, the major aims remain unchanged.

During the first SOCRATES programmes, the number of students participating in the mobility scheme have continued to increase. From 1987 to 1998, there was a substantial growth in the number of students studying in another European country with a ERASMUS grant, though grants declined by 21 percent from 1990/91 (1,220 ECU on average per student) to 1997/98 (959 EURO on average per student). In 1998/99, about 92.000 students were supported by the ERASMUS scheme. Progress in other areas like curriculum development and recognition of periods of studies was less visible.⁵¹

The ERASMUS programme has contributed substantially to rising student mobility, it has laid the basis for a European credit system (ECTS) and has affected national legal systems. There have also been side effects:

- With funds at the Commission’s disposal , universities and students have become its clientele and communication is no longer mediated by the Member States.
- New European associations and interest groups in higher education have formed to lobby in Brussels. Those set up in the 1970s, when education first became an issue, have increased their activities (ACA-Academic Cooperation Association, EAIE-European Association for International Education, ESN-Erasmus Student Network, ESIB-National Union of Students in Europe, AEGEE-Association des Etats Généraux de l’Europe, Confederation of European Union Rectors’ Conferences, EURASHE-European Association of Institutions in

Higher Education see also: Directory of European associations in the field of education, European Commission 1999)

- For administration of the programme in the Member States, both in the ministries and in the universities, new units have been set up. To fulfil its function and abide by EC rules, its staff needs to be more oriented towards Brussels than towards national governments. Some authors, again, have pointed to the possibility that units in such a double-loyalty situation may pursue their own policy through manipulation.
- The administration of the programme has enhanced knowledge of European higher education at the Community level. EURYDICE, the Education Information Network in the European Union, has become increasingly important.
- Finally, intergovernmental activities have also increased, ERASMUS has been on the agenda of Minister meetings, and in 1994 the Directors General for higher education began to meet regularly.

The Sorbonne Declaration

The previous two chapters deal with national and Community policies on higher education over the last decades and attempt to identify approximations between European higher education systems which that occurred or began to develop before the Sorbonne Declaration of 1998. It has been argued that all national governments, at one time or another, have been faced with two developments: a substantial increase in student numbers and financial stringencies. The massive expansion of higher education has entailed differentiation and a shift to more vocationally-oriented courses. Coupled with restrictions in public spending, expansion has motivated national governments to decentralize and strengthen institutional autonomy but also to introduce more rigid efficiency rules. The process continues, but at the end of the 1990s, universities have been seen less as national institutions and more as enterprise-like organisations. Community policies, on the other hand, have enforced the shift towards vocational orientation, removed restrictions to the free movement of students throughout the European Union, and set up one of the most ambitious mobility grant systems in history. The latter has enhanced the enterprise character of higher education institutions and their European orientation. Student mobility has increased significantly but unevenly within the European Union. For various reasons, some higher education systems attract more students than others. The Community has also made moves towards a mutual recognition of degrees and periods of studies as well as towards curriculum development, though these changes have been less significant. This chapter looks at the Sorbonne Declaration and the more immediate circumstances surrounding its signing.

The process of change in higher education has nowhere so far resulted in a settled situation. New legislations, White Papers, and expert reports reflect the continuous drive for innovating higher education systems. The Sorbonne Declaration, too, was preceded by such activities. In 1997 the Dearing report was presented by the British government, and in May 1998 the Attali report was launched in France. In Germany and Italy, new legal reforms were prepared. All these national activities also had an international orientation. In the course of preparing the Dearing report, questionnaires were sent not only to national universities but also to institutions abroad. The legal reform in Germany was inspired by concerns about universities' international reputation. And in France the Attali report, produced at the request of Claude Allegre, then Minister for education, research and technology, questioned how to strengthen the international attractiveness of French higher education and asked, "Comment faire l'Europe des universites?"⁵²

This question, "How to make the Europe of the universities", is linked to the Community's mobility programmes and the experience gained so far. Student mobility has been highly appreciated since the end of World War II as it represents both a cultural value (enhancing mutual understanding of nations as well as personal and academic enrichment) and a means to an economic target (mobility of labour force). The programmes have further enhanced public appreciation of student mobility and are well accepted by national politicians.⁵³ However, national governments are concerned that studies abroad which are not or are only partially recognised by the students' home institutions may prolong the duration of courses⁵⁴ and therefore result in additional costs for governments as well as individuals. From time to time, two further issues have been raised by national governments; namely, the uneven distribution of migrant students within the European Union and the reduction in ERASMUS grants. Generally, all governments try to get their proper share of the available funds. An uneven mobility of students within the Union raises concerns in both student export and student import countries. The first are worried about their higher education lacking attractiveness or competitiveness and about possible brain drain. The latter are in a financially disadvantageous position as they subsidise the higher education of students from other EU countries. The amount of ERASMUS grant money per student has continuously decreased. At the end of the nineties it covered less than 30 percent of expenses during the study period abroad (or 58 percent of the additional costs abroad). Home country grants or loans covered another 18 percent, and the remaining 52 percent were borne by the students or their families.⁵⁵ Concern about EU student mobility and recognition were among the key stimuli for the Sorbonne Declaration.

An additional stimulus and a particularly relevant point for France and Germany was the attractiveness of their higher education institutions for non-European students and their international competitiveness. Compared to the United States and Australia, European universities attract increasingly fewer non-European students. Whereas US universities have a long tradition of receiving foreign students, Australian universities have engaged in various activities to attract overseas fee-paying students in only the last decade and have been highly successful.⁵⁶ The reform efforts of C. Allègre and J. Ruttgers were motivated by their countries' competitive disadvantages.⁵⁷

A further reason for a "joint action", which is in line with the intergovernmentalists' interpretation of the integration process, was to build support for reforms. Those had encountered opposition in France from higher education institutions and in Germany from the Länder.⁵⁸ Still another reason was the unsettled or dynamic distribution of competences between the Member States and the Community. The Commission had expanded its competences in higher education and introduced the successful mobility programme. Since the Commission has been less successful regarding the recognition of studies, the Member States could demonstrate their role: "Il faut faire l'Europe d'Erasmus.....Donc nous voulions une harmonisation européenne.....La Commission européenne s'était attaquée à ce problème depuis vingt ans, avec un résultat nul."⁵⁹

The Declaration was initiated by the then French Minister and drafted in close cooperation with the Ministers from Germany, Italy and the United Kingdom. Neither the Commission nor other external bodies were included in the drafting process. It was signed only by the four Ministers, even though representatives from other governments were present at the conference. Reasons given for the restriction of signatories include lack of time for further consultations (the document had been prepared only briefly before the Sorbonne celebration) and other, more strategic, considerations: "Puis nous nous sommes dit: en matière universitaire, si la France, l'Italie, l'Allemagne et la Grande-Bretagne sont pour, les autres suivront."⁶⁰ The document was presented in the course of the conference (Sorbonne Forum) which was organised with the assistance of the French Conference of University Presidents on the occasion of the University Paris-Sorbonne's eight hundredth anniversary.

The Declaration, titled "Joint declaration on harmonisation of the architecture of the European higher education system", deals with two issues: an open European area for higher learning and international recognition of degrees and attractiveness. With regard to the first point, the document underlines the need for "continuous efforts to remove barriers and to develop a framework for teaching and learning, which would enhance mobility and ever closer

cooperation”. It mentions the usefulness of the ECTS scheme for the recognition of study periods abroad and lifelong learning, as well as directives and conventions on the recognition of higher education qualifications and degrees. It encourages a further expansion of student and staff mobility and a progressive harmonisation of the overall framework of degrees and cycles. The recognition of degrees is relevant both for intra-European mobility and for the international competitiveness of European higher education. To be attractive, degrees from European institutions need to be externally and internally readable and recognised. “A system”, reads the Declaration, “in which two main cycles, undergraduate and graduate, should be recognised for international comparison and equivalence, seems to emerge”. With reference to the undergraduate level, the Declaration makes clear that there should be a diversity of programmes and that each must lead to an appropriate level of qualification.⁶¹ In the graduate cycle, emphasis should be placed on research and autonomous work; there should be a choice between a shorter master’s degree and a longer doctor’s degree, with transfer possibilities from one to the other. The four Ministers commit themselves to “encouraging a common frame of reference, aimed at improving external recognition and facilitating student mobility as well as employability,” and “to engage in the endeavour to create a European area of higher education”. Finally, the other Member States of the Union and other European countries are invited to join.

Why is it that the Sorbonne Declaration has attracted so much attention in all European countries? Its content, at first glance, is vague and leaves room for interpretation. One would suppose that all Member States could without major difficulty fit their higher education systems within the Declaration’s framework. The document even seems to encourage variable interpretation with its reference to respecting national diversities, just as Community documents on education usually do. A system with two main cycles, undergraduate and graduate, is envisaged, but neither their length nor their structures are mentioned.⁶²

In addition, it is a document by the four Ministers responsible for higher education, not a binding treaty.

The attention the Sorbonne Declaration attracted cannot be explained by a single reason; rather, there have been at least three factors contributing to its high profile:

First, the term “harmonisation”, used once, in the title (“harmonisation of the architecture of the European higher education system”) and again in the penultimate paragraph (“Progressive harmonisation of the overall framework of our degrees...can be achieved through strengthening ...experience, ..”) is a delicate notion in education. This has been explained in literature by the

functions education has fulfilled for the nation state. The issue is still more complicated with higher education. The concept of “academic freedom” has made it a shared responsibility of academics and national governments. As stated above, the patterns and funding of higher education are in the hands of governments, but curriculum issues rest largely with academics. Curriculum refers to the content and methods of teaching and learning. But these, of course, determine the length of a course. What is regarded as an appropriate level of achievement for conferring a degree, again, depends on the orientation of higher education.

The signatories of the Declaration represent not only the four largest EU Member States but also the three major models or orientations in European higher education. These have been described as the “personal development model”(UK), the “Humboldtian or ‘research model” (Germany), and the “professional training model”(France).⁶³ All three models were developed when only a small portion of the population received higher education and have since come under pressure with expansion.

The Humboldtian model is based on the idea that students learn in an apprenticeship-like manner from teachers who do research and engage in scholarship. “Learning by participating in scientific/scholarly work” sets a low limit to the number of students. Access to such universities, however, is defined not by the institutions themselves but by secondary schools. In principle, all who pass a higher secondary school leaving certificate (“Abitur”, “Matura”) are admitted to higher education. Therefore, this system has been responsive to an expansion in access but has run into difficulties in educating all those admitted. Long durations of studies and high drop-out rates have been the consequences. In France, where the “professional training model” prevails, the percentage of the age group going to higher education doubled within only ten years, from 20 percent in 1980 to 40 percent in 1990, putting the system under stress. A compartmentalized system (grandes écoles, universities, instituts universitaires de technologie-IUT) lacked permeability and flexibility to respond to new demands. In addition, the IUTs traditionally offered courses with a duration of only two years, failing to meet the three-year minimum articulated in Directive 89/48/EEC. The UK system, characterized by the “personal development model” with a structured undergraduate level and research training at the graduate level, has served as a model for countries with minimally structured and long degree courses. With its emphasis in undergraduate education on the student rather than on the advancement of the discipline or profession, it has proved, so it seems, more responsive to changing needs.⁶⁴ Access to higher education in the UK, however, has expanded less dramatically than in the other two countries. And indeed, with increasing student numbers and budgetary restrictions, the UK model, too, has been endangered. The main objective of the

Dearing commission was to consider the question of how to finance a further expansion of higher education. The 1997 decision to introduce student fees was a first response.

The pressures of expansion and budgetary stringencies due to economic policies have led to some approximation of the European countries with regard to steering and funding higher education. The pressure resulting from expansion on teaching and learning is twofold: it concerns the organisation of teaching and learning and curriculum content. Concerning the latter, recent decades have witnessed an increase in vocationally oriented courses. National governments have enhanced stronger links with the labour market through differentiation (creating new higher education institutions or a higher education sector outside of universities) and through financial incentives for and pressure on universities. Community documents e.g., the 1995 White Paper “Teaching and Learning – Towards the Learning Society”, as well as programmes (Comett) have promoted a stronger orientation towards industry and the economy. Employability, also cited by the Sorbonne Declaration, has been made an objective of university studies. But differences in European higher education systems have remained significant, because the organisation of teaching and learning as well as degree structures continue to be largely determined by the three models’ different orientations. This variance has complicated Community activities concerning curricula, including the recognition of degrees and study periods.

Until the Sorbonne Declaration, the three models were protected by the Member States on grounds of national tradition and cultural diversity. The Sorbonne Declaration signalled a reduced commitment to support the particularities of national higher education. A “European area of higher education” is to be created, and national higher education must adapt to fit under the new roof.

The notion of a “European area of higher education” in the Sorbonne Declaration was not totally new. Decision No.819/95/EC has specified “the creation of an open European area for cooperation in education” as being one of SOCRATES’ objectives. However, those cooperating need to have less in common than those forming an area. A European area of higher education must have at least three components. First, students and staff need to be mobile. Second, the “services” offered by universities within the area must not be protected against competition via non-recognition of non-national certificates by national (including national academic-professional) authorities. And third, higher education institutions must not be part of the national administration but able to act in a European context. None of the three conditions exist in European higher education, but a process towards their realisation has been initiated. The ECJ and Community mobility programmes have addressed the first issue, and

national policies have engaged in an organisational denationalisation of universities. The Sorbonne Declaration, finally, has addressed the “protection of services”.

The implicit reduction of government protection for their respective national higher education tradition and universities’ exposure to competition has raised the concern of those who adhere to their academic traditions. Although the changes envisaged by the Declaration have been formulated rather vaguely, they have been taken seriously as they have been in tune with the profound reforms in the funding and steering of universities already taking place.

A second reason for the Sorbonne Declaration’s renown is that the signing was followed almost immediately by reforms in France and Germany. This signalled that the signatories were committed to implementing their declarations. In France the Attali report, with recommendations for changes in French higher education, was released May 1998 and “led to confusion between the two documents, which seem to be amalgamated in the minds of many players in the higher education community”⁶⁵ The 3 – 5 – 8 model advocated by the Attali report has been introduced and permeability between universities and the “grandes écoles” has increased. Finally, courses at the IUT have been extended by a year to lead to a first degree (Licence professionnelle), and thereby fall into line with Directive 89/48/EEC.

In Germany the 1976 “Hochschulrahmengesetz” was amended in August 1998. Among other changes, it has provided for the possibility to introduce bachelor’s and master’s degrees. The introduction to the amendments explains that on the “world market” those degrees are generally accepted. The traditional German degrees are less known and useful, especially in non-European countries.

Third, the Sorbonne Declaration is well known because it was not a single event but has been followed immediately by further activities. The other Member States of the Union and other European countries were invited to join the four signatories and sign the document. Belgium, Switzerland, Romania, Bulgaria, and Denmark accepted. Perhaps even more importantly, at the Sorbonne Forum, L. Berlinguer, then Italian Minister for Education, extended an invitation to fellow Ministers in other European countries to a follow-up conference in Bologna in spring 1999. Some weeks later, the process to prepare for this conference began.

Effects and Consequences of the Sorbonne Declaration: the Bologna Declaration and Process

The Sorbonne Declaration was first discussed by all EU Ministers of Education in October 1998 in the course of an informal meeting during the Austrian presidency. Those countries that had not been involved in the Sorbonne proceedings commented on this fact with regret. There was general agreement that a comparative study should be done to map the existing structures in European higher education, and the establishment of a working group on the topic was proposed. O. Zecchino, who had followed L. Berlinger as Minister for Education in Italy, renewed the invitation to a follow-up conference in spring 1999 in Bologna.

Only a few days later, the meeting of the Directors General of higher education and the Chairmen of Rectors' Conferences of the EU Member States took place. Upon a proposal by the chairman, a "Sorbonne follow-up working group" was set up. The group was comprised of representatives from the Austrian, German, Finnish, and Italian Ministries responsible for higher education (i.e., the "troika countries" of spring 1999), and from the hosting country of the Bologna conference, the European Commission, the Confederation of European Union Rectors' Conferences, and the Association of European Universities (CRE). The fact that this process was launched without delay reveals the attention the Sorbonne Declaration had attracted, especially from those countries that had not been involved. It due also to the Italian invitation to host a further conference. But it was also reveals that plans to reform the degree structures along the lines of the Sorbonne Declaration (or rather as it had been interpreted) or along the lines of the reforms in Germany and France spread quickly to the other countries, including to Austria which then held the presidency.

The Directors General for higher education of the EU Member States have been meeting since the German presidency in 1994. They gather twice a year, which means once for each presidency, and normally, one of their meeting is a joint one with the Confederation of EU Rectors' Conferences and the Association of European Universities. As the meeting preceding the October meeting had been a joint meeting, the October meeting was originally meant to be a meeting of the Directors Generals only. However, as it was Austria's first presidency there was wish for a more encompassing event that also welcomed the representatives of academia. A move which should prove useful for the further process.

From December 1998 to May 1999, four sessions of the working group took place.

The sessions, especially the first one, are most interesting with regard to how the Commission, the national governments, and the academic community interacted, which of these three stakeholders in higher education took the lead, and the roles to be played by each in preparing the Bologna Declaration. Therefore they are described in some detail.⁶⁶

At the first session, the Italian representative informed the group about the dates of the conference (18 and 19 June 1999) and about organisational and technical details. Invitations were to be sent to all EU Member States and associated countries, the participation of students was envisaged, and about 300 participants were expected. The group was then informed that the Commission had commissioned the Confederation of EU Rectors' Conferences to produce a report on "Trends in Learning Structures in Higher Education".⁶⁷ The report was to provide an overview of higher education structures in EU Member States and in the countries of the European Economic Area, outlining divergences and convergences. This study was also a response to the demand raised by the Ministers at their meeting in October 1998. The two experts that were to prepare the report, have been familiar with Community policies for years as previously they had worked for the ERASMUS bureau. The "Sorbonne follow-up working group" was to act also as steering committee for the study, with the two experts participating in the group's meetings. On the proposal of the Commission, the working group representative from the country of the presidency was to act as chair. Italy proposed that representatives from France and the United Kingdom also be invited to participate, which meant that all signatory countries of the Sorbonne Declaration and the main "European higher education models" were included.

In the next session, the Commission representative raised the question of competence and underlined that the area of mobility is a Community competence, and for purposes of preparing a Minister meeting, the issues which can be dealt with in the framework of the Community and those which are topics for the Ministers should be distinguished.

The host country informed the group that the organisation of the first day was the responsibility of the University of Bologna. The Italian Ministry of Higher Education would then be responsible for the second day, which was to lead to the signing of a document by the Ministers. The Italian Ministry would also be responsible for preparing this document.

A draft of the document, completed by one of the experts in charge of the project on learning structures in higher education at the request of the chair was presented to the working group at its next session and discussed and commented on together with the draft prepared by Italy. Again, the commission official stressed that the document should not include activities that are already done on the Community level but should go beyond it. The question was also raised, but not further discussed, of whether the declaration was to be an intergovernmental or a mixed (including Community responsibilities) document.

At its last session before the Bologna Conference, the working group summarized the main questions and comments on the draft document which had been sent out for comments to all Ministers who were invited. A draft of the project on “Trends in Learning Structures in Higher Education” was made available, in June to all who would participate in the Conference. To discuss further steps, the working group agreed on a meeting after the Bologna Conference.

The Bologna Conference turned out as planned. On the first (“academic”) day which was organised by the University of Bologna in cooperation with Confederation of European Union Rectors’ Conferences and the Association of European Universities, the study “Trends in Learning Structures in Higher Education” was presented by one of the authors. In the afternoon session, academics and civil servants from the participating countries met in working groups to discuss the following issues: architecture of learning structures - the relationship between first and higher degrees, flexibility in the structure of qualifications, learning paths, competition and the European Higher Education Space, and human resource development.

On the second (“Ministers”) day, Kenneth Edwards, President of the Association of European Universities, presented the Ministers with a report that summed up the discussions from the previous day. This presentation was followed by a debate on the draft declaration on “The European Higher Education Area”, introduced by the Italian Minister. The declaration was then signed by Ministers responsible for higher education (or their deputies) of 29 European countries. Finally, to promote continuity an invitation was extended to attend in spring 2001 a conference in Prague.

To assess what has been achieved so far, the Bologna Declaration and its distinction from the Sorbonne Declaration are now considered:

The Bologna Declaration, “The European Higher Education Area. Joint declaration of the European Ministers of Education convened in Bologna on the 19th June 1999” – so reads the full title - opens similarly to the Sorbonne Declaration with a commitment to building a “Europe of Knowledge”, which the document sees as necessary “to consolidate and enrich the European citizenship”. It refers to the Sorbonne Declaration’s intention “to promote citizens’ mobility and employability”, to the reform processes which have been launched in the meantime and which prove the governments’ determination to act, to the role of European higher education institutions in constructing the European area of higher education, and to the Bologna Magna Charta Universitatum of 1988.⁶⁸ These are moves in the right direction, but the Bologna Declaration accedes continuous efforts and concrete measures are needed to achieve greater compatible and comparable systems. In particular, the international competitiveness of the “European system” (sic!) of higher education has to be ensured.

After a commitment to coordinating national policies “in the short term, and in any case within the first decade of the third millennium”, the document states the following seven objectives which are considered “to be of primary relevance in order to establish the European area of higher education”: First, adoption of a system of easily readable and comparable degrees, also through the implementation of the Diploma Supplement. Second, adoption of a system based on two main cycles, undergraduate and graduate, the former lasting a minimum of three years and leading to a degree which is both relevant to the European labour market and, is appropriate for continuing studies. The graduate cycle should lead to a master’s and/or doctorate degree. Third, establishment of a system of credits, such as ECTS, to promote student mobility. Fourth, overcoming other obstacles to effective mobility of students and staff. Fifth, promotion of European cooperation in quality assurance. Sixth, promotion of the necessary European dimensions in higher education, particularly with regard to curricular development, inter-institutional cooperation, mobility schemes and integrated programmes of study, training and research.

Seventh, after expressing respect for the diversity of cultures, languages and national educational systems and for university autonomy the Declaration concludes with the commitment (“within the framework of our institutional competences”) to consolidate the European area of higher education by intergovernmental cooperation, together with those non-governmental European organisations that have competence in higher education. In order to assess progress, another conference should take place within two years.

In what way is the Bologna Declaration different from the Sorbonne Declaration and what are their scopes?

First of all, there is the difference in the drafting procedures. Whereas the Sorbonne Declaration was drafted by four Ministers and their secretariats, the responsibility for drafting the Bologna Declaration, though ultimately with the Italian Minister, was more widely shared. In preparing the document and the conference, officials from the four signatory countries of the Sorbonne Declaration, from Austria and Finland, from the Commission, and from the academic world were involved. The Commission, mainly through the administration of the mobility programmes, had gained a more comprehensive knowledge of European higher education than individual Member States and also had experts on hand. Consequently, it could steer the process and act as policy entrepreneur as it had done with success in the past to expand Community competences in education.⁶⁹

Second, the Bologna Declaration encompasses more objectives. Its “all inclusive” content reflects the participation of all three stakeholders in higher education. There is a commitment to already well established Community activities, such as the Diploma Supplement, the ECTS system, and the promotion of student and teacher mobility. But there are also new areas, such as quality assurance and international competitiveness, that might eventually lead to new or extended Community activities.⁷⁰ Furthermore, the key issue of the Sorbonne Declaration, the “harmonisation of the overall framework of ...degrees...and cycles”, is taken up and formulated more precisely. The Bologna Declaration explicitly states the lengths of the first cycle and its orientation and that of the second cycle. However, it does not exclude the traditional ERASMUS approach to achieving recognition of studies and degrees whereas the authors of the Sorbonne Declaration seemed to have thought to substitute it by their approach.⁷¹ With reference to the “European dimension in higher education”, the Declaration affirms support of curricular development and integrated programmes of study.

Finally, in invoking the Bologna Magna Charta Universitatum and calling upon the universities to respond and to contribute to the consolidation of the European area of higher education, the Bologna Declaration recognizes the role played by the third partner, the academic community.

With regard to contents, the Bologna Declaration is a mixed document. The question of whether it was to be an intergovernmental or Community document had been raised in one of the preparatory working group sessions, (see page), but had not been further discussed. The Declaration deals - for the greater part - with established Community activities. Its intergovernmental

aspects supports and concretizes the Sorbonne Declaration. It is much more of an administrative or administrable document than the Sorbonne Declaration which is a purposeful but vague policy statement of ministers. This is also the contribution of the Bologna document to the development of a European area of higher education: It has defined the Sorbonne Declaration and has supported the ongoing national reforms and changes of degree structures. It has set a time limit for reaching its goals and has initiated a follow-up process. In addition, it has enhanced Community activities and opened the door for new ones such as accreditation or transnational education. And last but not least, it has expanded the number of signatory states.

Formally, the Declaration is not a mixed but an intergovernmental document. It was signed by the Ministers responsible for higher education of the EU, of EFTA/EEA, and of the associated countries. There is, however, a particularity that might be confusing, namely that the signatories commit themselves to engage in co-ordinating their policies to reach objectives which are for the most part also under the ERASMUS programme.

The Declaration does not mention the Commission. In its penultimate paragraph it refers to the Confederation of European Union Rectors' Conferences and the Association of European Universities and asserts that to consolidate the European area of higher education, "we will pursue the ways of intergovernmental co-operation, together with those non-governmental European organisations with competence on higher education". Separately, in the next sentence it acknowledges the role of universities "We expect Universities...to contribute actively ..."

The question of whether the Declaration is binding or not was discussed unofficially by some countries after receiving a draft at a meeting of the Education Committee before the Bologna Conference. In some Member States, those responsible for higher education were not inclined to sign a binding document, either because of the text or because they were sensitive about its effects on national responsibility for higher education. In any case, also for procedural requirements, the legal scope needed to be clarified. As there is no indication in the minutes that the matter was discussed at the conference, the signatory states seem to have clarified it individually, in all cases determining that the document is not a binding one.

Despite this implicit agreement of the signatory countries on the document's non-binding character, there seems to be confusion about its normative status as the following example illustrates: "The Bologna Declaration is not just a political statement, but a binding (sic) commitment to an action programme".⁷² Such a description points to the problematic side of the

Declaration. Those who in one way or another have to implement it or are ultimately affected may be misinformed about its legal scope. If we look at some of the reasons that inspired the Sorbonne and Bologna Declarations – the deliberations that they would support national reform plans that encountered severe opposition, the struggle for competences of the Commission and the nation states – the lacking transparency of the Declarations’ legal scopes might be used intentionally to manipulate information and to enhance one’s position or policy. Such strategic interpretation is an ambiguous tool, however, since it evokes or enhances the perception that Europeanization leads to a democracy deficit.

This is closely linked to the concerns raised about the use of soft law. Education has been seen as a domain where Community competences have evolved through soft law.⁷³ If we look at higher education, however, regulation through soft law has never been important. This may be due to the fact that Council recommendations and other communications on higher education usually deal with issues that have already arrived at the agenda of various international organisations, such as Unesco, World Bank, and OECD⁷⁴, and have to different degrees also attracted the attention of national authorities. Lifelong learning, distance education, and information and communication technologies are examples of such issues. Concerning the development of a European area of higher education, there in the past, too, soft law has not been relevant.

It goes beyond the scope of this paper to discuss in detail whether the Bologna Declaration fits into the soft law category. But a tentative answer may be put forward. If we follow Francis Snyder, who defines soft law as “rules of conduct which, in principle, have no legally binding force but which nevertheless may have practical effects”⁷⁵, and take into account the effects of the Declaration, then it qualifies as soft law. The document represents an intergovernmental statement and can be treated as public international soft law. But it is not Community soft law, since the Declaration was not created by Community institutions.

The Sorbonne Declaration, in contrast, is more of a political statement. The objectives to be reached are defined too vaguely to be used as a basis for defining rules and assessing compliance. The fact that for Germany the Declaration was signed by the Federal Minister with only limited responsibility in higher education (the Bologna Declaration was also approved by a representative of the Länder) may further indicate its more political than legal orientation. However, if we look at the effects, then the documents are more similar. The Sorbonne Declaration was the precondition for Bologna; even as a non-binding policy statement, it is effective in this way. This may explain the shift of interest to compliance research, as more insight into the conditions

which lead to compliance with non-binding regulations is needed to define the concept of soft law and the borderline to other non-binding measures more strictly.⁷⁶

Whereas the establishment of a follow up process to the Sorbonne Declaration was mainly due to the fact that most EU Member States had been excluded from the preparation and signing of the document, the Bologna Declaration provided for a follow-up process which later became to be known as Bologna Process. It concludes with the decision “to meet again within two years in order to assess the progress achieved and the new steps to be taken.” In the case of the Sorbonne Declaration, the authors experienced a successful follow-up process. Notably, follow-up processes or continuous monitoring are a means to enhance compliance with non-binding rules.⁷⁷

The “Sorbonne Follow-up group/steering committee” met, as had been envisaged, after the Bologna Conference in July 1999, to formally terminate its work. It discussed the future tasks and, in principle, structured the follow-up of the Bologna Conference. It agreed that a new group had to be set up, that different parts of the Bologna Declaration had to be implemented by different actors who needed cooperation, and that the role of the Commission was paramount in the process. Technically, the new working group was to be set up in September at the meeting of the Ministers of Education. Its proposed composition followed the pattern of the Sorbonne group. Since it was the Finnish presidency at the time, Finland would chair the group which should include representatives from other EU Member States, the associated countries, the Confederation of European Union Rectors’, the CRE and the Commission.

The follow-up structure, formally established in September 1999, is mainly based on this proposal. There is a “follow-up group” comprised of representatives from the countries successively holding the EU presidency during the two years prior to the Prague meeting (Finland, Portugal, France, Sweden), from the Czech Republic, the European Commission, the confederation and from CRE. In addition, there is a “consultative group” of representatives from all signatory countries (“national contact points”) which also reports on national progress. Both groups began their work in autumn 1999. In 2000, the follow-up group met three times, and the enlarged group met twice. The follow-up process covers all objectives stated in the Bologna Declaration and is not restricted to the harmonising degree structures or preparing for the Prague Conference. It is therefore also a means to promote ERASMUS activities or to take new initiatives (accreditation, transnational education⁷⁸). In each meeting, participants update each other about activities and projects. The first comprehensive progress reports on implementing the Bologna Declaration, including the adaptation of the degree structures, were presented a year after the Bologna Conference by the national representatives in the enlarged group.

To facilitate implementation of what was agreed upon in Bologna and to prepare for the Conference in Prague the Commission commissioned reports and is funding activities.

The study “Trends in Learning Structures in Higher Education” is being supplemented by two additional reports. One deals with the associated countries that signed the Declaration but were not covered in the initial study. The other provides a further update, covering the developments since the Bologna (“From Bologna to Prague”). The latter report is expected to be on web by March 2001. It will be discussed and commented upon at a conference for academics, the “national contact points”, and the Commission. This conference (“Convention of European Higher Education Institutions”) has been planned and organised as an activity of the academic community. On the basis of the reports and the conference, a document (“What type of European Higher Education Area”) will be produced and presented to the Ministers at the Prague Conference. Further projects ordered and funded by the Commission deal with the credit system, quality assurance and accreditation and transnational education.

On the national level, seminars have been arranged to inform others about the Bologna Declaration and the ongoing processes. Conferences and workshops have also been organised by associations in higher education, such as EURASHE, the European Society for Engineering Education (SEFI), the European Association of International Education (EAIE), and various student organisations.

A number of countries have introduced new laws to bring their systems in line with the objectives of the Declaration, while others are preparing legal changes. So far, legal amendments have been used to change degree structures not only in France, Germany and Italy, but also in Austria, Netherlands, and Norway. At the meeting of the General Directors of higher education in October 2000, all EU Member States with the exception of Greece (that then did not intend to introduce bachelor’s degrees) reported to have restructured their systems. In the associated countries, educational systems underwent major reforms in the course of the political changes. Most of these reforms have been inspired (due to reviews by World Bank, OECD, etc.) by a system that with regard to degree structures, largely corresponds to the Bologna Declaration’s objective.

Conclusion

This paper was inspired by the attention the Sorbonne Declaration has attracted and by subsequent developments, notably the Bologna Declaration. Its aim is to clarify the content and scope of the Declarations and to delineate the roles of the Member States and the Commission in creating a European area of higher education, one that allows free circulation of students and staff. To create this area, universities need to be organised not in a national but in a European context. Students and staff must be mobile, and degrees and courses must be recognised throughout the area.

In general the EU Member States, as a result of restrictions on public funding caused by recession and in order to meet the Maastricht criteria, have changed the organisation and funding of their higher education institutions. The ties between nation states and universities have been loosened with the latter becoming increasingly denationalised. Expansion in student numbers has helped to stimulate this process. In addition, higher education has diversified and become more orientated towards the needs of industry and the labour market. Economic recessions affected the different Member States to different degrees, also the reductions in public spending needed to satisfy the convergence criteria have varied by state. There are time lags, too, between countries in terms of when the most significant expansion took place. Because of these variations in time, the organisation and funding of higher education have converged and continue to converge, gradually.

The Community has primarily affected higher education (as well as other parts of the welfare state) through fiscal and economic policies. By defining higher education as part of vocational education which was to contribute to the development of the economy and a competence of the Community, it became also a Community responsibility. Consequently, the right to free movement, defined as a precondition for the common market, was extended to students. To make this right effective, a Community programme to fund temporary student and staff mobility was established. Within a decade, student mobility increased significantly. Community policy thus enhanced the vocational orientation of universities as well as student mobility.

Less successful have been efforts to change national teaching and learning traditions. Past reforms, so it seems, were insufficient in order to make higher education more responsive to increasing student numbers, or in order to facilitate student mobility throughout Europe. The three main European traditions governing universities come from a time when universities educated only a small portion of the population, sufficient for academic self-reproduction and to support the nation state's own functioning. Neither the Humboldtian nor

nor the Napoleonic nor Cardinal Newman's ideas of a university were concerned with mass or universal participation in higher education.

On the Community level, student mobility and the recognition of studies or study periods abroad have encountered difficulties because of the different teaching and learning traditions of European universities. As the increase in staff mobility has thus far been only moderate, it has not reach the critical mass necessary to effect national teaching and learning traditions and to enhance comparability of courses and degrees.

On the global level, higher education has become a business. Nation states have always been, to one degree or another, concerned about the international attractiveness of their universities. To receive students, scholars, and scientists from abroad is thought to contribute to national intellectual and scientific development, as well as being an aspect of cultural and economic policy. By the 1990s, France and Germany, and to a lesser degree the UK, were becoming less and less attractive to non Europeans, whereas universities in the United States, Canada, and Australia not only profited from "brain gain" but also from selling higher education.

The coincidence of these three shortcomings explains the step of the four Ministers of France, Germany, Italy, and the UK towards a harmonisation of their higher education systems. To put it another way, competitiveness and national pride have motivated national governments to give up their protection of the national particularities of their higher education traditions.

A European higher education area does not yet exist. It will take time and may still turn out differently than what those involved in its creation have expected. The legal reforms that have accompanied or followed the Sorbonne Declaration and that are to formally establish uniform degree structures within Europe must still be implemented. The question is whether the new degree system will be implemented as the signatories of the Declarations envisaged or whether, in the process of implementation, the national traditions will prevail.

Another unanswered question is, whether it is realistic to expect higher education to contribute to the consolidation of European citizenship. The nation state has traditionally protected and funded universities so that they would contribute to developing and to stabilising national citizenship. It seems in line with the developments described above and with the two Declarations that higher education in Europe is more and more becoming part of the economy and belonging less to public sector. May we then assume that the universities will contribute to a European citizenship as they did to the national?

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Endnotes

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- ² Eurydice (2000), Two Decades of Reform in Higher Education in Europe: 1980 onwards. Brussels; OECD (published yearly) Education at a Glance. Paris; OECD (1999) Tertiary Education: Extending the Benefits of Growth to New Groups. In Education Policy Analysis 1999. Paris; Eurydice, Eurostat (1997) Key data on education in the European Union. Brussels
- ³ Pechar, H. (1999), Die Auswirkungen der Globalisierung auf die Hochschulen. The impact of Globalization on Higher Education. In Pechar, H., Pellert, A. Internationalisierung österreichischer Universitäten. Internationalization of Austrian Universities. ZfHD 1/99. Innsbruck-Wien-München
- ⁴ Teichler, U.(1990) Europäische Hochschulsysteme. Die Beharrlichkeit vielfältiger Modelle. Frankfurt-New York; Teichler, U. (1993) Structures of Higher Education Systems in Europe. In Gellert, C. (ed) (1993) Higher Education in Europe.London .Green, A.; Wolf, A., Leney, T.(1999) Convergence and divergence in European education and training systems. London.
- ⁵ generally speaking, access to higher education continues to differ with socio-economic status
- ⁶ Scott, P. (1995), p. 72 ff
- ⁷ Neave, G., Van Vught, Fr.A. (eds) (1991) Prometheus Bound. The changing Relationship between Government and Higher Education in Western Europe. Oxford.
- ⁸ Scott 1995, p. 80
- ⁹ Slaughter, S., Leslie, L.L. (1997) Academic Capitalism. Politics, Policies and the entrepreneurial University. Baltimore and London; Clark, B.R. (1998) Creating Entrepreneurial Universities: Organizational Pathways of Transformation. Pergamon.; OECD/IMHE (2000) Materials of the General Conference 2000: Beyond the Entrepreneurial University: Global Challenges and Institutional Responses.
- ¹⁰ OECD (1989) Alternatives to Universities in Higher Education. Paris
- ¹¹ OECD (1998) Redefining Tertiary Education; Eurydice (2000) Two Decades of Reform
- ¹² Teichler, U. (1993) Structures of Higher Education Systems in Europe. In Gellert, C.(1993) Higher Education in Europe. London
Interestingly, three of the four signatories of the Sorbonne Declaration have been academics.
- ¹³ de Witte, B. (ed) (1989) European Community Law of Education. Baden-Baden; Schink, G. (1993) Kompetenzerweiterung im Handlungssystem der Europäischen Gemeinschaft: Eigendynamik und "Policy Entrepreneurs". Baden-Baden; McMahan, J.A. (1995) Education

and Culture in European Community Law. London; Frazier, C. (1995) *L'Education et la Communauté Européene*. Paris, Shaw, J.(1999) *From the Margins to the Centre: Education and Training Law and Policy*. In Craig, P., de Búrca, G. (eds) *The Evolution of EU Law*. Oxford; Gori, G. (2000) *Towards a European Right to Education? Education and Training Rights and Policies in the European Union*. Thesis EUI; Pfeffer, Th.(1999) *Die Entstehung einer europäischen Bühne für Hochschulbildung als Folge der Politik der EU*. In Pechar, H., Pellert, A. *Internationalisierung österreichischer Universitäten. Internationalization of Austrian Universities*. ZfHD 1/99. Innsbruck-Wien-München.

¹⁴ Schneider, H.(1995) *Die Anerkennung von Diplomen in der Europäischen Gemeinschaft*. Antwerpen-Apeldoorn.

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¹⁶ Council Decision No 63/266/EEC of 2 April 1963

¹⁷ on the problem employed and self-employed professionals see: Schneider, H.(1995)

¹⁸ Council Resolution of 6 June 1974

¹⁹ 75/362/EEC of 16 June 1975, 86/457/EEC of 15 September 1986; 93/16/EEC of 5 April 1993

²⁰ 78/686/EEC of 25 July 1978

²¹ 78/1026/EEC of 18 December 1978

²² 85/433/EEC of 16 September 1985

²³ 85/384/EEC of 10 June 1985

²⁴ e.g. in Italy and Austria new courses in dentistry had to be established. Formerly in these countries dentistry had been postgraduate specialisation in medicine.

²⁵ This is not to say that curricula reforms on the national level are not time-consuming.

²⁶ Schink (1993), p. 35

²⁷ 89/48/EEC of 21 December 1988

²⁸ France

²⁹ Austria, Finland, Italy but also Switzerland although not a member state

³⁰ in contrast to the recognition for professional purposes universities generally regard the academic recognition as their responsibility. The latter concerns the question whether a

student may continue his/her study and to what extent qualifications acquired in another university(system) are recognised

³¹ Case 293/83 Gravier v. City of Liège [1985] ECR 593

³² notably Case 24/86 Blaizot v. University of Liege [1988] ECR 379, Case C-109/92 Wirth v. Landeshauptstadt Hannover [1993] ECR I 6447

³³ Case 197/86 Brown v. Secretary of State for Scotland [1988] ECR 3205

³⁴ Case C-337/97 C.P.M.Meeusen v. Hoofddirectie van de Informatie Beheer Groep

³⁵ Case C-109/92 Wirth v. Landeshauptstadt Hannover [1993] ECR I 6447

³⁶ Shaw (1999), p. 264

³⁷ Palayret, J.-M.(1996) Eine Universität für Europa. Die Vorgeschichte des Europäischen Hochschulinstituts in Florenz (1948-1976). Rom, p.81-95; Committee Report to Councils of ECC and EAC 1960

³⁸ Shaw, J.(1999), p. 583; Pratt, J. (1974) Education in the EEC. In Higher Education Review 2/74. London

³⁹ Council of Europe-NARIC,CEPES,OECD/IMHE,

⁴⁰ OJ [1976] C 38/1. Community activities in education increased in the first half of the 1970s. This has been explained by the fact that access of the UK and Ireland meant also additional staff for the Commission. Since the traditional areas had been staffed by the founding members, the new staff moved into new fields.

⁴¹ Smith, A. (1976) Joint Programmes of Study – An Instrument of European Cooperation in Higher education. In: Collection of Studies of the EEC Commission. Luxembourg; Dalichow, Teichler, U. (1986) Higher Education in the European Community – Recognition of study abroad in the European Community – the Findings of a Survey of Joint Study Programmes. Office for publication s of the European Communities, Luxembourg.

⁴² de Witte, B. (1993) Higher Education and the Constitution of the European. Community.In Gellert, C. Higher Education in Europe. London, p.194

⁴³ Decision 87/327/EEC of 15 June 1987

⁴⁴ Weiler, J.H.H. (1982) Supranational law and the supranational system: legal structure and political process in the European Community, EUI

⁴⁵ Case 242/87, Commission v. Council [1989] ECR 1425

⁴⁶ Lenaerts, K. (1989) ERASMUS: Legal Basis and Implementation. In de Witte, B.(ed) (1989) European Community Law of Education.

- ⁴⁷ Teichler, U., Maiworm, F. (1997) The ERASMUS Experience. Office for Official Publications of the European Communities, Luxembourg, p.202
- ⁴⁸ Goedegebuure, L.C.J, de Lange, S., Maassen, P.A.M. (1997) The European dimension in higher education. Some costs and benefits. Enschede. Teichler, U., Maiworm, F. (1997), p. 32 ff; Teichler, U., Gordon, J., Maiworm, F. (2000) SOCRATES 2000 Evaluation Study, Part I, Draft manuscript July 2000, p.24 ff
- ⁴⁹ Teichler, U., Maiworm, F. (1997), p. 206
- ⁵⁰ Decision 819/95/EC of 20 April 1995 and Decision 253/2000/EC of 24 January 2000
- ⁵¹ Teichler, U. Gordon, J., Maiworm, F. (2000)
- ⁵² Allegre, C. (2000) Toute verite est bonne à dire, Paris, p. 260; Rüttgers, J. (1998) Vorwort, HRG Hochschulrahmengesetz, Bonn.
- ⁵³ Goedegebuure, L.C.J., de Lange, S., Maassen, P.A.M. (1997), Teichler, U., Gordon J., Maiworm, F (2000)
- ⁵⁴ although ERASMUS programme make recognition a precondition for funding, periods abroad are only partially recognised by the home institutions, see: Teichler U., Maiworm, F. (1997), p. 115 ff; Teichler, U., Gordon, J., Maiworm, F. (2000), p. 90 ff
- ⁵⁵ Teichler, U. Gordon, J., Maiworm, F. (2000), p. 74-75
- ⁵⁶ Gallagher, M. (2000), The Emergence of Entrepreneurial Public Universities in Australia. CER/IMHE/GC(2000)24, p. 13. OECD Paris
- ⁵⁷ Allegre, C. (2000) p. 264, Rüttgers, J. (1998) HRG
- ⁵⁸ Allègre, C. p.263 “L’harmonisation européenne était donc un fil d’Ariane pour contribuer à construire l’Europe, mais aussi pour rénover l’enseignement supérieur français.”; Interviews.
- ⁵⁹ Allègre, C. (2000), p.259
- ⁶⁰ Allegre, C. (2000), p.260
- ⁶¹ German text: angemessene berufliche Qualifikation, French text: niveau pertinent de qualification
- ⁶² Though one has to notice that there have been talks between the French and German minister about the length of the courses and obviously also an agreement had been reached: “Je pensais que le niveau bac+4 correspondait mieux à l’habitude français. C’est le ministre allemand Jurgen Rüttgers qui m’a convaincu. Son argument était politique.....Si nous options pour le niveau bac+4, nous nous rangions sur la norme américaine, mais avec des étudiants plus vieux et apparemment d’un meilleur niveau.”, Allègre, C. (2000), p. 260

⁶³ Gellert, C. (1999) Introduction. The Changing Conditions of Teaching and Learning in European Higher Education. In Gellert, C. (ed) Innovation and adaptation in higher education, London. p.14

⁶⁴ Gellert, C. (1999) p. 10

⁶⁵ Haug, G. Annex: The Sorbonne Declaration of 25 May 1998: what it does say, what it doesn't. In Trends in Learning Structures in Higher Education. Project Report prepared for the Bologna Conference on 18-19 June 1999, p 25. Brussels

⁶⁶ Summary reports of the Sorbonne Follow-up working group/steering committee

⁶⁷ Trends in Learning Structures in Higher Education. Project Report prepared for the Bologna Conference on 18-19 June 1999, Brussels

⁶⁸ this document was established by the Rectors of European Universities on the nine hundredth anniversary of Bologna University which, in principle, confirmed universities' autonomy, the combination of teaching and research, freedom in research and training (sic!) and an international orientation as being universities' fundamental principles.

⁶⁹ Schink, G. (1993), Shaw, J.(1999)

⁷⁰ quality: Council Recommendation 98/561/EC of 24 September 1998 on European cooperation in quality assurance in higher education; projects commissioned by the Commission on accreditation and on franchising.

⁷¹ Allègre, C., p.259

⁷² Handout for national seminars on the Bologna Declaration: Confederation of EU Rectors' Conference, Association of European Universities, The Bologna Declaration on the European space for higher education: an explanation, 2000

⁷³ Shaw, J. (1999), p. 591; K.C.Wellens, G.M.Borchardt, Soft Law in European Community Law, European Law Review, Vol.14, 1989, p.299

⁷⁴ e.g. Deutsche UNESCO-Kommission (ed) (1997) Lernfähigkeit: Unser verborgener Reichtum. UNESCO-Bericht zur Bildung für das 21. Jahrhundert.

⁷⁵ Snyder, Soft Law and Institutional Practice in the European Community, p. 2. EUI Working Paper Law 93/5.

⁷⁶ EUI project in compliance research; D.Shelton (ed) (2000) Commitment and Compliance. The role of non-binding norms in the international legal system. Oxford

⁷⁷ C.Jablonek, W.Okresk (1983) Theoretische und praktische Anmerkungen zu Phänomenen des 'soft law', Österreichische Zeitschrift für öffentliches Recht und Völkerrecht, Vol.34, 1983/84, p.222f

⁷⁸ among others the Commission asked for recommendations on “a coherent future European Union cooperation policy with non-Union countries”: Reichert, S., Waechter, B.(ACA), The Globalisation of Education and Training: Recommendations for a Coherent Response of the European Union, European Commission, September 2000