

The Bologna Process and Its Impact in Europe: It's So Much More than Degree Changes

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ABSTRACT

The Bologna Process is a massive, multi-year project designed to create the “European Higher Education Area” by the year 2010. It began ten years ago, when four European Union (EU) countries signed a relatively vague declaration. It has grown to include forty-six countries, including all of the EU Member States and nineteen non-EU countries. The Bologna Process countries have agreed on ten “action lines” for restructuring European higher education. These action lines are nothing short of revolutionary—they address everything from a three-cycle degree system (e.g., bachelor-master’s-doctorate degrees), European-wide quality assurance efforts, mobility of higher education students and staff, “recognition” in one European country of studies undertaken in another European country, and the suitability of education for the marketplace. Because of the number of countries participating in the Bologna Process, its ambitious goals, and its demonstrated commitment to achieving those goals, the Bologna Process is an extremely significant development that will be important not only in Europe but elsewhere in the world. This Article is designed to provide “one-stop shopping” for understanding the Bologna Process, which will allow the reader to learn about all of its initiatives and action lines, and to understand and place in context future developments. This Article covers developments through the May 2007 London Ministerial meeting. It concludes with an examination of the impact of the Bologna Process on European higher education, including legal education.

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European countries are in the midst of a massive project called the Bologna Process that is dramatically changing the face of higher education in Europe.¹ One goal of the Bologna Process is to create something called the “European Higher Education Area” by the year 2010.² Although the Bologna Process is an extremely high profile issue in Europe,³ it has not received much attention from the U.S.

1. The Bologna Process is sometimes referred to as “Sorbonne-Bologna” after the cities in which European education ministers first met to discuss these issues. *See, e.g.,* Julian Lonbay, Sorbonne Bologna Links & Mutual Recognition, http://elixir.bham.ac.uk/Free%20Movement%20of%20Professionals/SB/SB_links01.htm (last visited Nov. 1, 2007) (referring to Sorbonne-Bologna).

2. *See* Joint Declaration of the European Ministers of Education: The Bologna Declaration of 19 June 1999, http://www.bologna-bergen2005.no/Docs/00-Main_doc/990719BOLOGNA_DECLARATION.PDF (last visited Oct. 31, 2007) [hereinafter Bologna Declaration] (undertaking the objective to consolidate the European area of higher education).

3. While on sabbatical in Europe in 2005 and 2006, I discovered that the Bologna Process was a topic of frequent conversation and appeared in popular press articles as well as in academic articles. *See, e.g.,* Lucia Vesnic, *The Implementation of Bologna Process in Serbia*, NEWROPEANS MAG., Nov. 29, 2006, http://www.newropeans-magazine.org/index.php?option=com_content&task=view&id=4956&Itemid=259 (discussing the effect of the Bologna Process on Serbian students). For examples of articles discussing the Bologna Process that have appeared in the newsletters and journals of the European Law Faculties Association, demonstrating its widespread impact, see Hege Braekhus & Olaug Husaboe, *The Impact of the Sorbonne-Bologna Declaration on Legal Education in Norway*, 1 EUR. J. LEGAL EDUC. 43 (2004); Evy De Batselier, *Legal Education in Flanders: Introducing the Bachelor/Master Structure*, 1 EUR. J. LEGAL EDUC. 45 (2004); Peter M. Huber, *Der “Bologna-Prozess” und seine Bedeutung für die deutsche Juristenbildung*, 1 EUR. J. LEGAL EDUC. 35 (2004); Patricia Leighton & Gareth Vowles, *Challenges for Law Schools in Providing CLE: Some Research Findings from Wales*, 1 EUR. J. LEGAL EDUC. 17 (2004); Anne Pelissier-Klebes, *Perception and Practice of the ECTS in France*, 1 EUR. J. LEGAL EDUC. 29 (2004); Jacek Petzel, *Perception and Practice of the ECTS in Poland*, 1 EUR. J. LEGAL EDUC. 35 (2004); Mark Refalo, *The Application of ECTS in Legal Studies: Bologna and ECTS—The Law Student View*, 1 EUR. J. LEGAL EDUC. 51 (2004); and Frans Vanistendael, *Editorial: Sorbonne-Bologna: Are We on the Right Track?*, 1 EUR. J. LEGAL EDUC., at vi (2004). *See also* Julian Lonbay, *Reflections on Education and Culture in EC Law*, in CULTURE AND EUROPEAN UNION LAW 243, 270 (Rachael Craufurd Smith ed., 2004) (addressing the Bologna Process); Julian Lonbay, *University Training: The Implications of the Bologna Declaration for the UK*, 0 EUR. J. LEGAL EDUC. (2001), available at [http://www.elfa-afde.org/PDF/Journal/UNIVERSITY%](http://www.elfa-afde.org/PDF/Journal/UNIVERSITY%20)

legal community.⁴ A few U.S. law-review articles have focused on one or two aspects of the Bologna Process, but none have provided a comprehensive overview; furthermore, many individuals think that its primary goal is to convert European universities to a bachelor-master degree structure.⁵ Although the U.S. legal community has not paid particularly close attention to the Bologna Process, the U.S. Department of Education and other U.S. higher education entities have been following Bologna Process developments and are well aware of their potential impact in the United States.⁶

Because of the scope and breadth of the Bologna Process, its impact could be felt across the entire U.S. legal community and law school curriculum. With respect to law schools, for example, there are numerous Bologna Process initiatives or offshoots that could affect a law professor teaching property, torts, contracts, antitrust, or any

20TRAINING.pdf (discussing the impact of the Bologna Process on the U.K. as a multi-jurisdictional country); European Law Faculties Association [ELFA], Newsletters, http://www.elfa-afde.org/html/activities_newsletter.html (last visited Nov. 1, 2007) (listing newsletters published from 1999 to 2002).

4. The Bologna Process has not been discussed in many articles written for U.S. journals. The following list of articles mentioning the Bologna Process have generally been written by Europeans or for symposia focusing on international legal education issues. See Louis F. Del Duca, *Cooperation in Internationalizing Legal Education in Europe: Emerging New Players*, 20 PENN ST. INT'L L. REV. 7 (2001); Louis F. Del Duca, *Emerging Worldwide Strategies in Internationalizing Legal Education*, 18 DICK. J. INT'L L. 411 (2000); Toni M. Fine, *Introduction and Overview: Working Together: Developing Cooperation in International Legal Education*, 20 PENN ST. INT'L L. REV. 1 (2001); Tom Latrup-Pedersen, *International Accreditation of Law Schools: An Inevitable Corollary of Globalization?*, 43 S. TEX. L. REV. 435 (2002); Norbert Reich, *Recent Trends in European Legal Education: The Place of the European Law Faculties Association*, 21 PENN ST. INT'L L. REV. 21 (2002); Frans Vanistendael, *BA-MA Reform, Access to the Legal Profession, and Competition in Europe*, 21 PENN ST. INT'L L. REV. 9 (2002); Frans J. Vanistendael, *Blitz Survey of the Challenges for Legal Education in Europe*, 18 DICK. J. INT'L L. 457 (2000); Frans Vanistendael, *Curricular Changes in Europe Law Schools*, 22 PENN ST. INT'L L. REV. 455 (2004); and Frans J. Vanistendael, *Quality Control of Students and Barriers to Access in West-European Legal Education*, 43 S. TEX. L. REV. 691 (2002). The Bologna Process has also been mentioned briefly in Larry Catá Backer, *Human Rights and Legal Education in the Western Hemisphere: Legal Parochialism and Hollow Universalism*, 21 PENN ST. INT'L L. REV. 115, 133 n.60 (2002); Franz C. Mayer, *Competences—Reloaded? The Vertical Division of Powers in the EU and the New European Constitution*, 3 INT'L J. CONST. L. 493, 507 n.51 (2005); and Tarja Salmi-Tolonen, *Legal Linguistic Knowledge and Creating and Interpreting Law in Multilingual Environments*, 29 BROOK. J. INT'L L. 1167, 1172 n.22 (2004). For articles that have been written by U.S. authors for European journals, see Mary Kay Kane, *An American Perspective on the Bologna Declaration*, ELFA NEWSL. (Belgium), 2001, at 62, available at <http://www.elfa-afde.org/PDF/Newsletter/2001-1.pdf>; and Carl Monk, *Comments on the Bologna Declaration from a United States' Perspective*, ELFA NEWSL. (Belgium), 2001, at 64, available at <http://www.elfa-afde.org/PDF/Newsletter/2001-1.pdf>.

5. See, e.g., Lynn M. Malley, *Hope: The Unexpected Outcome of an Online Dispute Resolution Competition*, 38 U. TOL. L. REV. 361, 365 (2006) (describing the effect of the Bologna Process on Serbian culture).

6. See *infra* notes 709-713.

other subject.⁷ The Bologna Process has led to (a) initiatives to define the “outcomes” or “competences” that European students should have, (b) discussions about “recognition” processes for students (and lawyers) who have studied elsewhere, (c) efforts to develop transnational quality-assurance standards, (d) initiatives to make higher education more responsive to the needs of business and industry and help Europe become the most competitive knowledge-based economy in the world, and (e) efforts to develop common curricular standards.⁸ This latter point is particularly important for the U.S. legal community. If representatives from forty-six European countries were to decide that European students studying “X” area of law needed to master certain substantive law concepts, because of the size of Europe and the global nature of the U.S. economy, it would be important for U.S. lawyers and students to be familiar with those substantive concepts as well.⁹

The goal of this Article is to provide a comprehensive overview to those persons who are interested in learning more about the Bologna Process. Simply put, the Article aims to provide “one-stop shopping” with respect to the Bologna Process. After finishing this Article, the reader should be able to navigate the multiple Bologna Process websites, find documents of interest, and understand the context and meaning of those documents. This Article includes the important developments from the May 2007 Bologna Process Ministerial Meeting held in London. In doing so, this Article provides the background and context that will be necessary to understand the developments that will take place at the next Ministerial Meeting, which will be held in May 2009.¹⁰

Part I of this Article provides an overview of the Bologna Process and the ten “action lines” it has adopted to implement the European Higher Education Area.¹¹ Part II provides necessary contextual information; it identifies initiatives of the Bologna Process “participating organizations” and explains the relationship of those initiatives to the Bologna Process. Part III explores the history and development of the Bologna Process initiatives. Part IV addresses

7. For additional commentary on such implications, see Laurel S. Terry, *The Bologna Process and its Implications for U.S. Legal Education*, 58 J. LEGAL EDUC. (forthcoming 2008).

8. Conference of Ministers Responsible for Higher Educ., Realising the European Higher Education Area (Sept. 19, 2003), available at http://www.bologna-bergen2005.no/Docs/00-Main_doc/030919Berlin_Communique.PDF [hereinafter Berlin Communiqué].

9. See Laurel S. Terry, *U.S. Legal Ethics: The Coming of Age of Global and Comparative Perspectives*, 4 WASH. U. GLOBAL STUD. L. REV. 463 (2005) (discussing the effect of globalization on U.S. clients and lawyers).

10. Bologna Process, Ministerial Meeting Hosted by the BENELUX Countries in 2009, <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/conference/> (last visited Nov. 1, 2007).

11. See *infra* notes 30-32 for information about the action lines.

the impact of the Bologna Process on European higher education, and Part V addresses its impact on European legal education specifically. This Article also includes three Appendices. Appendix 1 identifies the overlapping memberships of each Bologna Process country. Appendix 2 presents the results of the 2005 and 2007 Stocktaking exercises. Appendix 3 summarizes existing data about the impact of the Bologna Process on European legal education.

I. AN OVERVIEW OF THE BOLOGNA PROCESS

A. *Origins, Ongoing Ministerial Meetings, and Communiqués*

The Bologna Process began in 1998 with a written understanding signed by the Ministers of four European Union (EU) countries.¹² By 2007, the Bologna Process had expanded to forty-six participating countries, including all twenty-seven of the EU countries and nineteen non-EU countries.¹³ The number of participating countries is likely to expand in the future.¹⁴ The goal of

12. Sorbonne Joint Declaration on Harmonisation of the Architecture of the European Higher Education System, May 25, 1998, *available at* http://www.bologna-bergen2005.no/Docs/00-Main_doc/980525SORBONNE_DECLARATION.PDF [hereinafter Sorbonne Declaration] (committing France, Germany, Italy, and the United Kingdom to the improvement of student mobility and employability).

13. The forty-six Bologna Process members include the twenty-seven EU Member States and nineteen non-EU countries: (1) Albania, (2) Andorra, (3) Armenia, (4) Azerbaijan, (5) Bosnia and Herzegovina, (6) Croatia, (7) Georgia, (8) the Holy See, (9) Iceland, (10) Liechtenstein, (11) Moldova, (12) Montenegro, (13) Norway, (14) Russian Federation, (15) Serbia, (16) Switzerland, (17) Former Yugoslav Republic of (FYRO) Macedonia, (18) Turkey, and (19) Ukraine. *Compare* Benelux Bologna, Participating Countries, <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/links/> (last visited Nov. 2, 2007) [hereinafter Benelux Bologna, Bologna Participating Organizations] (listing the countries participating in the Bologna Process), *with* Europa, The EU at a Glance: European Countries, http://europa.eu/abc/european_countries/index_en.htm (last visited Nov. 2, 2007) (listing the member states of the EU). *See generally infra* app. 1 (listing information about the Bologna Process participants).

14. In 2005, Kazakhstan and Kosovo, neither of which is a Council of Europe member, applied to join the Bologna Process, but had not been recommended. *See* FROM BERLIN TO BERGEN: GENERAL REPORT OF THE BOLOGNA FOLLOW-UP GROUP TO THE CONFERENCE OF EUROPEAN MINISTERS RESPONSIBLE FOR HIGHER EDUCATION, BERGEN, 19–20 MAY 2005, at 40–41, *available at* http://www.bologna-bergen2005.no/Bergen/050503_General_rep.pdf [hereinafter BFUG REPORT FOR THE BERGEN MINISTERIAL MEETING] (explaining the procedures for admission into the Bologna Process and accepting the applications from Armenia, Azerbaijan, Georgia, Moldova, and Ukraine, but not Kazakhstan or Kosovo). In 2007, the Kyrgyz Republic, the Turkish Republic of Northern Cyprus, Israel, and Kosovo applied to join the Bologna Process. The Bologna Follow-Up Group's [BFUG] initial view was to reject each because none met the criteria for membership, which were: (1) ratification of the European Cultural Convention, and (2) a commitment to the goals and policies of the

the Bologna Process is exceedingly ambitious; it plans to remake the face of higher education in these forty-six countries and form the so-called European Higher Education Area (EHEA) by the year 2010.¹⁵

The goals of the EHEA and the Bologna Process have evolved through a series of biennial meetings and the work leading up to those meetings.¹⁶ Between 1998 and 2007, the education Ministers of the Bologna Process countries met six times.¹⁷ During each of these meetings, they significantly expanded the Bologna Process objectives and work program.¹⁸ The results of the first two meetings are contained in the 1998 Sorbonne Declaration and the 1999 Bologna Declaration,¹⁹ and the results of the next four meetings are memorialized in the 2001 Prague Communiqué,²⁰ the 2003 Berlin Communiqué,²¹ the 2005 Bergen Communiqué,²² and the 2007 London Communiqué.²³

During the 2005 meeting, the Ministers adopted two additional documents that are currently being implemented by Bologna Process members: the *Standards and Guidelines for Quality Assurance in the*

Bologna Process, confirmed in writing by the competent authorities. Bologna Secretariat & Council of Eur., Applications to Join the Bologna Process, BFUG11 Agenda Item 7a, ¶¶ 24–26 (Feb. 23, 2007), available at http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUG11_7a_applicationstojoinBolognaProcess.doc [hereinafter Applications to Join the Bologna Process, BFUG 11 7a]. This initial view was ultimately accepted. Minutes of the Bologna Follow-Up Group Meeting, BFUG 11 Minutes, Apr. 17–18, 2007, at 5, available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUG11finalminutes-Be2.doc> [hereinafter BFUG 11 Minutes]. The Bologna Process members indicated, however, that although Kosovo did not meet the criteria at that time, it might be possible to admit it as a new member for the next Ministerial conference in 2009, provided it clearly met the agreed criteria. *Id.*

15. See, e.g., Conference of Ministers Responsible for Higher Educ., Towards the European Higher Education Area (May 19, 2001), available at http://www.bologna-bergen2005.no/Docs/00-main_doc/010519PRAGUE_COMMUNIQUE.PDF [hereinafter Prague Communiqué] (reaffirming the commitment of the thirty-two signatories present in Prague to establish the EHEA).

16. See, e.g., *id.* (committing signatories to a follow-up meeting in two years' time and establishing preparatory groups).

17. See Sorbonne Declaration, *supra* note 12 (detailing the findings of the 1998 meeting); Bologna Declaration, *supra* note 2 (detailing the 1999 meeting); Prague Communiqué, *supra* note 15 (detailing the 2001 meeting); Berlin Communiqué, *supra* note 8 (detailing the 2003 meeting); Conference of Ministers Responsible for Higher Educ., The European Higher Education Area: Achieving the Goals (May 19–20, 2005), available at http://www.ond.vlaanderen.be/hogeronderwijs/bologna/documents/MDC/050520_Bergen_Communique1.pdf [hereinafter Bergen Communiqué] (detailing the findings of the 2005 meeting); Conference of Ministers Responsible for Higher Educ., Towards the European Higher Education Area: Responding to Challenges in a Globalised World (May 18, 2007), available at <http://firgoa.usc.es/drupal/node/35825> [hereinafter London Communiqué] (detailing the 2007 meeting).

18. See *infra* notes 30–32 (discussing Bologna Process action lines).

19. Sorbonne Declaration, *supra* note 12; Bologna Declaration, *supra* note 2.

20. Prague Communiqué, *supra* note 15.

21. Berlin Communiqué, *supra* note 8.

22. Bergen Communiqué, *supra* note 17.

23. London Communiqué, *supra* note 17.

*European Higher Education Area*²⁴ and the *Framework of Qualifications for the European Higher Education Area*.²⁵ The *Standards and Guidelines* document addresses both internal and external quality assurance reviews.²⁶ The *Qualification Framework* identifies the suggested outcomes and competences for each of the three degree cycles (e.g., the bachelor degree, the master's degree, and the doctorate) and the number of credits required to achieve each degree.²⁷ In 2007, the Ministers endorsed the creation of a new Register of European Higher Education Quality Assurance Agencies.²⁸ At that time, they also adopted a new strategy entitled "The European Higher Education Area in a Global Setting."²⁹

B. Ten Action Lines

Over the course of the past ten years and six meetings, the Bologna Process participants have agreed upon ten objectives or "action lines."³⁰ They are:

Introduced in the 1999 Bologna Declaration:

1. Adoption of a system of easily readable and comparable degrees;
2. Adoption of a system essentially based on two cycles;
3. Establishment of a system of credits;
4. Promotion of mobility;
5. Promotion of European cooperation in quality assurance;

24. See European Quality Assurance Standards, http://www.ond.vlaanderen.be/hogeronderwijs/bologna/documents/050520_European_Quality_Assurance_Standards-May2005.pdf (last visited Nov. 2, 2007) [hereinafter *Standards and Guidelines for Quality Assurance*] (providing a simple reference to the standards and guidelines); see also STANDARDS AND GUIDELINES FOR QUALITY ASSURANCE IN THE EUROPEAN HIGHER EDUCATION AREA (European Ass'n for Quality Assurance in Higher Educ. ed., 2005), available at http://www.bologna-bergen2005.no/Docs/00-Main_doc/050221_ENQA_report.pdf [hereinafter *ENQA STANDARDS AND GUIDELINES REPORT*] (providing complete guidelines).

25. Bergen Bologna, Framework of Qualifications for the European Higher Education Area, http://www.bologna-bergen2005.no/EN/BASIC/Framework_Qualifications.HTM (last visited Nov. 2, 2007) [hereinafter *Qualifications Framework*].

26. ENQA STANDARDS AND GUIDELINES REPORT, *supra* note 24, at 12–22.

27. Qualification Framework, *supra* note 25.

28. See London Communiqué, *supra* note 17, ¶¶ 2.14, 4 (endorsing register); REPORT TO THE LONDON CONFERENCE OF MINISTERS ON A EUROPEAN REGISTER OF QUALITY ASSURANCE AGENCIES, OCCASIONAL PAPERS NO. 13, at 5 (European Ass'n for Quality Assurance in Higher Educ. ed., 2007), available at <http://www.enqa.eu/files/ENQA%20occasional%20papers%2013.pdf> [hereinafter *ENQA, REPORT ON A EUROPEAN REGISTER OF QUALITY ASSURANCE AGENCIES*].

29. London Communiqué, *supra* note 17, ¶ 2.20.

30. Bergen Bologna, Work Programme Action Lines, http://www.bologna-bergen2005.no/EN/Work_prog/1Prog_Back-Action_lines.HTM (last visited Nov. 1, 2007) [hereinafter *Bologna Process Action Lines*].

6. Promotion of the European dimension in higher education;

Introduced in the 2001 Prague Communiqué:

7. Lifelong learning;
8. The partnership of higher education institutions and students;
9. Promoting the attractiveness of the European Higher Education Area (EHEA); and

Introduced in the 2003 Berlin Communiqué:

10. Doctoral studies and the synergy between the EHEA and the European Research Area (ERA).³¹

In addition to these ten action lines, the Bologna Secretariat has stated that “the social dimension of higher education might be seen as an overarching or transversal action line.”³²

An integral part of the Bologna Process strategy is the preparation of “stocktaking reports.” The first such report was prepared in anticipation of the 2005 Bergen meeting.³³ The Bologna Process participants had previously identified three goals as their immediate priorities: (1) quality assurance programs; (2) achieving a two-degree cycle (e.g. bachelor and master’s degrees); and (3) recognition of degrees.³⁴ The 2005 Stocktaking developed ten “benchmarks,” or indicators, to measure progress on these three priority objectives.³⁵ It then issued color-coded “scorecards” that rated each Bologna Process country on each of these ten benchmarks and rated the country on its overall score.³⁶ Participants could receive a score of green, light green, yellow, orange, or red.³⁷ The 2005 Stocktaking found that, collectively, the Bologna Process participants received a score of light green, which meant that by 2005, they had made very good progress in achieving their three priority objectives.³⁸ The Bologna Process participants used a similar process and methodology again in 2007; the 2007 Stocktaking found that there had been good progress since 2005 and that stocktaking worked well as an integral part of the Bologna Process strategy and

31. *Id.*

32. *Id.*

33. See Berlin Communiqué, *supra* note 8, at 7 (anticipating the introduction of measures to “take stock of progress achieved in the Bologna Process”).

34. *Id.*

35. WORKING GROUP APPOINTED BY THE BOLOGNA FOLLOW-UP GROUP TO THE CONFERENCE OF EUROPEAN MINISTERS RESPONSIBLE FOR HIGHER EDUC., BOLOGNA PROCESS STOCKTAKING REPORT 2005, at 16, 18, 21 (2005), available at <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/documents/BPstocktaking9May2005.pdf> (last visited Nov. 1, 2007) [hereinafter 2005 STOCKTAKING].

36. *Id.* at 64–106.

37. *Id.* at 15.

38. *Id.* at 41.

should be continued.³⁹ There will be another stocktaking in preparation for the 2009 Bologna Process Ministerial Meeting.⁴⁰

C. Bologna Process Administration

Four extensive websites containing Bologna Process materials have been created.⁴¹ Since 2001, the country hosting the upcoming Ministerial Meeting created and administered a Bologna website; they include the Berlin Bologna website (covering 2001-2003),⁴² the Bergen Bologna website (covering 2003-2005),⁴³ the U.K. Bologna website (covering 2005-2007),⁴⁴ and the current Benelux Bologna website (covering the period from 2007 until the May 2009 Ministerial Meeting in Leuven, Belgium).⁴⁵ When studying the Bologna Process, one is likely to consult all four of these websites.

The Secretariat and the Bologna Follow-up Group (BFUG) administer work on the Bologna Process.⁴⁶ The Secretariat rotates every two years and is held by the country in which the upcoming ministerial meeting will be held.⁴⁷ The BFUG consists of representatives from each Bologna Process country and the European

39. WORKING GROUP APPOINTED BY THE BOLOGNA FOLLOW-UP GROUP TO THE MINISTERIAL CONFERENCE IN LONDON, BOLOGNA PROCESS STOCKTAKING REPORT 2007, at 1, 6–10 (2007), *available at* <http://www.dfes.gov.uk/londonbologna/uploads/documents/6909-BolognaProcessST.pdf> [hereinafter 2007 STOCKTAKING]. The 2007 Stocktaking modified some of the 2005 benchmark items and added two new benchmark items: recognition of prior learning and establishment as well as recognition of joint degrees.

40. London Communiqué, *supra* note 17, ¶ 4.3.

41. Bologna Process: From London to Benelux and Beyond, <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/> (last visited Nov. 2, 2007) [hereinafter Benelux Bologna Website] (providing documents and listing the three previous websites).

42. Bundesministerium für Bildung und Forschung—Bologna Process: Towards the European Higher Education Area, Berlin 2003, <http://www.bologna-berlin2003.de/> (last visited Nov. 2, 2007) [hereinafter Berlin Bologna Website].

43. Bologna Process—Bergen 2005: From Berlin to Bergen and Beyond, <http://www.bologna-bergen2005.no/> (last visited Nov. 2, 2007) [hereinafter Bergen Bologna Website].

44. Welcome to the Bologna Process: Bergen—London Website, <http://www.dfes.gov.uk/londonbologna/> (last visited Nov. 2, 2007) [hereinafter U.K. Bologna Website].

45. See Benelux Bologna Website, *supra* note 41 (stating that the next Ministerial Conference “will take place on 28–29 April 2009 at the universities of Leuven and Louvain-la-Neuve”).

46. See Berlin Communiqué, *supra* note 8, at 8 (creating the Secretariat, the BFUG, and the BFUG Board).

47. *Id.*; see also Role of Secretariat: Proposed Terms of Reference 2005–2007, BFUG7 3, <http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUG7%203%20Role%20of%20Secretariat.doc> (last visited Nov. 3, 2007) [hereinafter Role of Secretariat] (discussing the role of the Secretariat during the 2005 to 2007 term).

Commission, together with eight “consultative members”⁴⁸ that are sometimes referred to as participating organizations.⁴⁹ The Bologna Process also has “partner organizations” whose interests are more narrowly focused than the consultative members.⁵⁰ The European Commission is a voting member of the BFUG;⁵¹ the consultative members are not entitled to vote.⁵² A representative from the country that currently holds the EU Presidency acts as the chair of the BFUG.⁵³

The Secretariat and the BFUG are supported by the BFUG Board, which is responsible for overseeing the work that takes place between BFUG meetings.⁵⁴ The eleven-member BFUG Board consists of (1) three representatives from participating countries who are elected by the BFUG for one year; (2) representatives from the countries holding the current, upcoming, and past EU presidencies; (3) a representative of the European Commission; and (4) consultative members from the Council of Europe, the European University Association (EUA), the European Association of Institutions in Higher Education (EURASHE), and the European Students Union

48. See Berlin Communiqué, *supra* note 8, at 8 (listing the Council of Europe, EUA, EURASHE, ESIB, and UNESCO/CEPES as BFUG consultative members). This list was later expanded to include BusinessEurope (formerly UNICE), EI Pan European Structure, and ENQA. See NEW CONSULTATIVE MEMBERS AND BFUG PARTNERS, BFUG5 6 (Mar. 30, 2005), available at http://www.bolognabergen2005.no/b/BFUG_Meetings/050412-13Mondorf/BFUG5_6New_members.pdf (advising the ministerial conference to grant UNICE and EI Pan European Structure consultative membership); NEW CONSULTATIVE MEMBERS: APPLICATION FROM ENQA, BFUGB8 6 (Apr. 18, 2005), available at http://www.bologna-bergen2005.no/B/Board_Meetings/050426_Brussels/BFUGB8_6_ENQA-consult.pdf (advising the Ministerial Conference to grant ENQA consultative membership); see also BFUG 11 Minutes, *supra* note 14 (inviting Eurodoc to join as a partner member, but not a consultative member).

49. Compare Bergen Bologna: Links, <http://www.bologna-bergen2005.no/EN/Links/00Link.HTM> (last visited Nov. 1, 2007) [hereinafter Bergen Bologna, Consultative Members] (listing consultative members), with Benelux Bologna, Bologna Participating Organizations, *supra* note 13 (referring to participating organizations). See generally Bergen Bologna, Criteria for New Consultative Members and BFUG Partners, http://www.bologna-bergen2005.no/EN/BASIC/050302_Criteria_BFUG.pdf (last visited Nov. 3, 2007) (referring officially to consultative members).

50. See, e.g., Applications to Join the Bologna Process, BFUG 11 7a, *supra* note 14 (stating that “[c]riteria for consultative membership are: added value to the Bologna Process; relevance of the stakeholder group; representativeness; and status as a non governmental or inter-governmental organisation.”). The Secretariat recommended that Eurodoc, which represents the interests of doctoral candidates, should be accepted as a partner organization rather than a consultative member because it had interests more limited in scope than the other consultative members. *Id.* The BFUG adopted this recommendation at its April 2007 meeting. BFUG 11 Minutes, *supra* note 14.

51. See Bergen Bologna, Consultative Members, *supra* note 49 (including the European Commission among the participants in the Bologna Process).

52. See *id.* (excluding the consultative members from the list of participating countries).

53. Berlin Communiqué, *supra* note 8, at 8.

54. *Id.*

(ESU, formerly known as ESIB).⁵⁵ Both the BFUG and its Board are entitled to convene ad hoc working groups.⁵⁶ The responsibilities and logistics of the Secretariat, the BFUG, and the BFUG Board have evolved since they were first created in 2003.⁵⁷ As of September 2007, there were eleven BFUG meetings and fourteen Board meetings, materials from which are publicly available.⁵⁸ The BFUG and Board agendas, supporting materials, and minutes originally were posted on a password-protected intranet page of the relevant Bologna Process website; after a particular Ministerial Meeting, those documents were made publicly available on that Secretariat's webpage.⁵⁹

In sum, forty-six Bologna Process countries are engaged in a massive effort to reshape European higher education. They have agreed to form the European Higher Education Area by 2010 and

55. *Id.*; see also *infra* Part II.C (providing additional information about these entities).

56. Berlin Communiqué, *supra* note 8, at 8.

57. See, e.g., Role of Secretariat, *supra* note 47 (stating the functions of the Secretariat from 2005 to 2007); see also Meeting of the Bologna Follow-Up Group, Helsinki, Finland, BFUG9, ¶ 5.1, Oct. 12–13, 2006, available at http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUG9_Helsinki_Meeting_note_final_website_copy.doc (approving the election procedure document with one minor change); Bologna Secretariat, Election Procedure for BFUG Board Members, BFUG9, Sept. 1, 2006, available at http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUG9%205%20-%20BFUGB13_8_%20ProcedureforelectiontoBoardJuly2006.doc (proposing involvement of the Secretariat in election procedures); Proposal to Set Principles or the Size of Delegations at BFUG Meetings, BFUGB11, ¶ 6, Jan. 2006, available at http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUB11_5Sizeofdelegationsproposalv2final.doc (recommending that participating countries, consultative members, and the European Commission should ideally send no more than one representative to BFUG meetings, except for federal or devolved countries, which may send two). The Board ultimately decided to ask BFUG members to consider their delegations carefully and restrict the number to the minimum possible without compromising their countries' or organizations' representation in the process. Minutes of the Bologna Board Meeting, BFUGB11 Minutes, Vienna, ¶ 5, Jan. 2006, available at http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUB11_MinutesFinalsent.doc [hereinafter BFUGB11 Minutes].

58. Academic Information Center, Latvian ENIC/NARIC, BFUG Work Programme 2005–2007, http://www.aic.lv/bologna/Bologna/maindoc/Work_Programme_July2006.htm (last visited Nov. 4, 2007) (detailing the BFUG work schedule through 2007 and listing meeting numbers).

59. See, e.g., Bergen Bologna, Behind the Curtain, <http://www.bologna-bergen2005.no/B/HIND.HTM> (last visited Nov. 3, 2007) (providing public access to stocktaking reports, communiqués, and meeting minutes); U.K. Bologna, Former Work in Progress Area, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=content.view&CategoryID=17> (last visited Nov. 3, 2007) (providing access to meeting minutes and working group reports). The BFUG minutes are referred to by the symbol “BFUG[meeting number] Minutes” and the Board Minutes are referred to by the symbol “BFUGB[meeting number] Minutes.” See, e.g., U.K. Bologna, BFUG & Board January to June 2007, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=docs.list&DocCategoryID=11> (last visited Nov. 3, 2007) (listing minutes for meetings ten and eleven in this manner).

have adopted ten action lines whose breadth is nothing short of revolutionary.⁶⁰ The Bologna Process countries currently are implementing the *Standards and Guidelines for Quality Assurance* and the *Qualifications Framework*, but their activities extend well beyond those agreements. The Parts that follow will provide more details about all of these initiatives and explain how they came to exist.⁶¹

II. PLACING THE BOLOGNA PROCESS IN CONTEXT: PARTICIPATING ORGANIZATIONS AND OTHER BOLOGNA PROCESS STAKEHOLDERS

Even with a cursory examination of the Bologna Process, one encounters a plethora of acronyms and discovers that the Bologna Process participants have either adopted or relied upon documents generated by other organizations, including ENQA, ESIB, Eurydice, ENIC/NARIC, UNESCO, and the EUA (to name just a few).⁶² Some of these organizations predate the Bologna Process, whereas other organizations were created in the wake of the Bologna Process to help implement its initiatives.⁶³ Thus, in order to understand the Bologna Process, one needs to be familiar with these groups and their initiatives. The first Subpart introduces the intergovernmental higher education initiatives, including initiatives of the EU, the Council of Europe, and the United Nations (U.N.).⁶⁴ The second Subpart introduces the key Bologna Process nongovernmental stakeholders, a number of whom have developed documents or initiatives that have been relied upon in the Bologna Process.⁶⁵

A. *The European Union and its Higher Education Initiatives*

Although the Bologna Process is not an EU program, it was initiated by four EU Member States, was quickly supported by other EU Member States, incorporates by reference several EU initiatives, and currently is supported in many direct and indirect ways by

60. Berlin Communiqué, *supra* note 8.

61. See *infra* Part II (describing the initiatives from the EU countries and participating organizations).

62. See, e.g., U.K. Bologna Website, General Documents, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=docs.list&DocCategoryID=2>, (last visited Nov. 3, 2007) (cataloging documents from EUA, UNESCO, ESIB, and other organizations).

63. Compare *infra* Part II.C.7 (discussing the Tuning Project), with *infra* Part II.B.2 (discussing the Council of Europe).

64. See *infra* Part II.A–B (discussing relevant EU and UN initiatives).

65. See *infra* Part II.C–D (describing the nongovernmental organizations involved).

various EU projects.⁶⁶ Moreover, the European Commission, which is an institution of the EU, is the only entity (other than the Bologna Process participants) that is a full voting member of the BFUG.⁶⁷ This Subpart of the Article highlights EU developments that are an integral part of the Bologna Process, but it does not purport to provide a comprehensive overview of the EU's higher education initiatives.

1. Introduction: EU Member States Have Traditionally Regulated Higher Education

As a starting point, one needs to understand that individual EU countries have traditionally regulated higher education—including legal education—because the EU itself is viewed as having very limited competence to regulate education.⁶⁸ One commentator summarized the situation as follows:

[Education] was not even mentioned in the first Treaty of Rome. The European Court of Justice in the *Gravier* and *Erasmus* judgments widely interpreted the competence of the EC in relation to training and education, and Member States thereafter clipped the wings of the EC in this sphere in the subsequent Maastricht Treaty.⁶⁹

Because of this limited competence to regulate, there are very few EU laws that directly regulate higher education, although there are a number of “soft law” initiatives.⁷⁰ These “soft law” measures include pilot projects, funding, benchmarks, and other EU initiatives.⁷¹ Some of the key EU initiatives that overlap the Bologna Process are described below.

66. See *supra* note 12 (describing its beginning by four EU Member States); *infra* Part III.A (discussing the Sorbonne Declaration in depth).

67. The terminology used on the Bologna Process websites has changed over time. For example, the BENELUX Bologna Website lists the European Commission as a “participating organization” in the Bologna Process. Benelux Bologna, Bologna Participating Organizations, *supra* note 13. The Bergen Bologna Website identifies the EU—rather than the European Commission—as a participating organization. Bergen Bologna, Participating Organizations, http://www.bologna-bergen2005.no/EN/Part_org/Part_org1.htm (last visited Nov. 3, 2007).

68. See Lonbay, *Reflections on Education and Culture in EC Law*, *supra* note 3, at 244 n.3. It was not even mentioned in the first Treaty of Rome. The European Court of Justice in the *Gravier* and *Erasmus* judgments widely interpreted the competence of the EC in relation to training and education, and Member States thereafter clipped the wings of the EC in this sphere in the subsequent Maastricht Treaty.

69. *Id.*

70. *Id.* at 249–51.

71. *Id.*

2. The Socrates and Erasmus Programs

The Socrates and Erasmus programs are among the oldest and most important examples of EU “soft law” measures, and they have influenced the Bologna Process in numerous ways. Among other things, the Socrates and Erasmus programs promote EU student mobility and have helped over one million European students travel to other European countries.⁷²

The Erasmus program began in 1987 as an initiative to support student exchanges.⁷³ It gives students the opportunity to study for a period of three to twelve months at a university or higher-education establishment in another participating country.⁷⁴ In order to participate in the Erasmus program, however, the student’s home institution must recognize the time the student spends in the host country.⁷⁵ The EU developed the European Credit Transfer and Accumulation System (ECTS) as the primary means for such recognition.⁷⁶ The ECTS is now an integral part of the Bologna Process.⁷⁷ The influence of the Erasmus program is widespread: the participants include 2199 higher education institutions in thirty-one countries (the twenty-seven EU Member States; Iceland, Liechtenstein, and Norway, which are the three countries of the European Economic Area; and Turkey, which is an EU candidate country).⁷⁸

72. European Commission, What is Socrates/Erasmus?, http://ec.europa.eu/education/programmes/socrates/erasmus/what_en.html (last visited Jan. 7, 2007) [hereinafter SOCRATES-ERASMUS Program]; see also Lonbay, *Reflections on Education and Culture in EC Law*, *supra* note 3, at 250 (citing the statistic of over a million students funded by the Socrates and Erasmus programs); Vanistendael, *Blitz Survey of the Challenges for Legal Education in Europe*, *supra* note 4, at 457–59 (summarizing the Erasmus program and its implementation into EU law schools).

73. SOCRATES-ERASMUS Program, *supra* note 72.

74. European Commission, Erasmus for Students, http://ec.europa.eu/education/programmes/llp/erasmus/students_en.html (last visited Nov. 4, 2007). The Erasmus program also pays the tuition costs for pre-exchange language courses. European Commission, Erasmus Intensive Language Courses (EILCS) 2007–2008, http://ec.europa.eu/education/programmes/llp/erasmus/eilc/general_en.html (last visited Nov. 4, 2007).

75. European Commission, Erasmus for Students, *supra* note 74 (describing the Learning Agreement set out between the home and host universities and the student).

76. See European Commission, ECTS—European Credit Transfer and Accumulation System, http://ec.europa.eu/education/programmes/socrates/ects/index_en.html (last visited Nov. 1, 2007) [hereinafter ECTS] (describing how the ECTS was initially set up to facilitate recognition of periods of study abroad).

77. See *id.* (stressing the important role ECTS plays in facilitating student mobility).

78. European Commission, What is Erasmus?, http://ec.europa.eu/education/programmes/llp/erasmus/what_en.html (last visited Nov. 3, 2007); SOCRATES-ERASMUS Program, *supra* note 72.

Erasmus is more than a student exchange program, however. The Erasmus program also supports higher-education faculty and staff through its funding of teacher exchanges, joint preparation of courses, intensive programs such as collaborative summer programs, and thematic networks among departments and faculties across Europe.⁷⁹ From 2000-2006, the Erasmus program was part of the Socrates II program,⁸⁰ but in 2007, it became part of the Lifelong Learning Programme (LLP).⁸¹ The Erasmus program is important because it has shaped some of the thinking that underlies the Bologna Process and because it remains a vehicle for improved mobility within Europe.

3. European Credit Transfer and Accumulation System (ECTS)

The EU introduced the ECTS in 1989 in the context of the Erasmus program.⁸² It was initially established as a credit transfer system and was based on the principle that sixty credits measure the workload of a full-time student during one academic year.⁸³ Thus, if an institution was told that a particular course in another country was worth five ECTS, the institution would have some basis for evaluating that course and would have an understanding of what the course involved.⁸⁴

The ECTS recently has turned into an accumulation system to be implemented at institutional, regional, national, and European levels.⁸⁵ This means that the ECTS is no longer used solely as a means to grant credit to students who have studied at another institution. Instead, the ECTS is now also used to measure what is required for a student to receive a particular degree, regardless of whether the student has studied abroad.⁸⁶ Because the ECTS is a

79. SOCRATES-ERASMUS Program, *supra* note 72.

80. European Comm'n, Directorate-Gen. for Educ. & Culture, *Socrates—European Community Action Programme in the Field of Education: Gateway to Education (2000–06)*, at 3, 5 (2002), available at http://ec.europa.eu/dgs/education_culture/publ/pdf/socrates/brochnew_en.pdf.

81. See European Comm'n, Erasmus, http://ec.europa.eu/education/programmes/llp/erasmus/erasmus_en.html (last visited Nov. 3, 2007) ("Erasmus is an integral part of the Lifelong Learning Programme (LLP) from the year 2007 to the year 2013 replacing Socrates/Erasmus (2000–2006).").

82. ECTS, *supra* note 76.

83. *Id.*

84. See *id.* (explaining that each ECTS credit translates to twenty-five to thirty working hours).

85. *Id.*

86. See *id.* (stating that the Ministers Responsible for Higher Education desire ECTS to be applied consistently across the entire European Higher Education Area).

core principle of the Bologna Process,⁸⁷ familiarity with this EU development is critical.

4. EU's Lisbon Strategy

The EU's "Lisbon Strategy" is another EU initiative that provides important context for the Bologna Process. The European Council, the primary decision-making body of the EU, adopted the Lisbon Strategy in March 2000.⁸⁸ The Lisbon Strategy includes a set of strategic goals to "strengthen employment, economic reform, and social cohesion as part of a knowledge-based economy."⁸⁹ The conclusions of the 2000 Lisbon meeting were memorialized in a seventeen-page document that contained a number of specific suggestions, as well as an often-cited agreement that the EU should

become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion.⁹⁰

Since 2000, the European Council has repeatedly endorsed and refined its Lisbon Strategy. For example, the March 2001 Stockholm European Council addressed the issues of education, training, and skills and identified a number of specific future projects.⁹¹ The 2002 Barcelona European Council called for specific further action and established an additional objective, which was to make Europe's

87. See, e.g., Sorbonne Declaration, *supra* note 12 (stating that the flexibility of the Bologna Process will be achieved through the use of the ECTS system); Bologna Process Action Lines, *supra* note 30 (stating that action lines adopted in the Bologna Declaration include establishment of a system of credits and adoption of a system of comparable degrees).

88. As the European Council explains on its website:

The European Council is the main decision-making body of the European Union. The ministers of the member states meet within the Council of the European Union. Depending on the issue on the agenda, each country will be represented by the minister responsible for that subject (foreign affairs, finance, social affairs, transport, agriculture, etc.). The presidency of the Council is held for six months by each member state on a rotational basis.

Council of the European Union, EU Council, http://ue.eu.int/cms3_fo/showPage.asp?id=348&lang=EN&mode=g# (last visited Nov. 3, 2007). Although the European Council is the main decision-making body of the EU, there are a number of issues for which community legislation is adopted jointly by the Parliament and the Council using a co-decision procedure. *Id.*

89. Presidency Conclusions, Lisbon European Council, (Mar. 23–24, 2000), available at http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm [hereinafter Lisbon Strategy].

90. *Id.* ¶ 5.

91. Presidency Conclusions, Stockholm European Council, ¶¶ 10–11, (Mar. 24, 2001), available at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.%20ann-r1.en1.html.

education and training systems a world-quality reference by 2010.⁹² The 2003 Brussels European Council reaffirmed its commitment to the Lisbon Strategy and agreed on measures the EU would undertake in order to achieve its objectives.⁹³ The March 2004 Brussels European Council addressed the issue of education, noting the relationship between education and jobs, and again expressed the EU's interest in becoming the leading knowledge-based economy in the world in order to guarantee jobs.⁹⁴ The March 2005 Brussels European Council also focused on the Lisbon Strategy, noting its progress and its shortcomings and identifying a number of tasks.⁹⁵ In March 2007, the European Council again devoted considerable time to the Lisbon Strategy, discussing the progress that had been made as well as the challenges ahead.⁹⁶

The European Council has encouraged the European Commission to take steps to implement its Lisbon Strategy. For example, in 2001, in response to an invitation from the European Council, the European Commission issued a work plan for the Lisbon Strategy entitled *Report from the Commission: The Concrete Future Objectives of Education Systems*.⁹⁷ The work plan was adopted by the Council in February 2002⁹⁸ and reaffirmed in March and June of 2002.⁹⁹ In September 2002, the European Commission recommended that EU Member States spend 3% of their gross national product on

92. Presidency Conclusions, Barcelona European Council, ¶¶ 43–44, (Mar. 15–16, 2002), available at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/71025.pdf.

93. Presidency Conclusions, Brussels European Council, ¶ 4, (May 5, 2003), available at http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/75136.pdf.

94. See Presidency Conclusions, Brussels European Council, ¶ 39, (Mar. 25–26, 2004), available at http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/79696.pdf (noting that education and training will play a vital role in the EU becoming the leading knowledge-based economy in the world).

95. Presidency Conclusions, Brussels European Council, ¶¶ 4–9, (Mar. 22–23, 2005), available at http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/84335.pdf.

96. Presidency Conclusions, Brussels European Council, ¶¶ 1–20, (Mar. 8–9, 2007), available at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/93135.pdf.

97. *Report from the Commission: The Concrete Future Objectives of Education Systems*, ¶¶ 1–2, COM (2001) 59 final (Jan. 31, 2001), available at http://europa.eu.int/comm/education/policies/2010/doc/concrete-future-objectives_en.pdf.

98. European Council, *Detailed Work Programme on the Follow-Up of the Objectives of Education and Training Systems in Europe*, ¶ 1.3, EN 6365/02 (Feb. 20, 2002), available at http://www.bologna-berlin2003.de/pdf/Arbeitsprogramm%20Rat%20der%20EU_Eng.pdf. See also European Council, *Detailed Work Programme on the Follow-Up of the Objectives of Education and Training Systems in Europe*, 2002 O.J. (C 142/1) (June 14, 2002), available at http://eur-lex.europa.eu/pri/en/oj/dat/2002/c_142/c_14220020614en00010022.pdf (publishing Work Programme).

99. Presidency Conclusions, Sevilla European Council, ¶ 54, (June 21–22, 2002), available at http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/72638.pdf; Presidency Conclusions, Barcelona European Council, *supra* note 92, ¶ 43.

education;¹⁰⁰ the European Council adopted this recommendation one month later.¹⁰¹ In November 2002, the Commission issued a document in which it asked the Council to adopt five new education benchmarks for the year 2010;¹⁰² most of these benchmarks dealt with secondary education, rather than higher education.¹⁰³ This document also identified a number of EU documents that already had set targets for education and training.¹⁰⁴ In 2007, the European Commission issued a set of benchmarks for the Lisbon Strategy.¹⁰⁵

This brief summary barely scratches the surface of the EU's Lisbon Strategy, which has generated tens of thousands of pages of documents and easily could be the subject of a separate law review article. For purposes of this Article, it is important to realize that the Bologna Process has developed in the context of a parallel EU education development called the Lisbon Strategy, and that there has

100. *Communication from the Commission: More Research for Europe—Towards 3% of GDP*, § 1, COM (2002) 499 final (Nov. 9, 2002), available at http://ec.europa.eu/research/era/pdf/com3percent_en.pdf (proposing the three percent benchmark).

101. Presidency Conclusions, Brussels European Council, at 7, (Oct. 16–17, 2003), available at http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/ec/77679.pdf (adopting the three percent benchmark).

102. *Commission Communication, European Benchmarks in Education and Training: Follow-up to the Lisbon European Council*, ¶ 6, COM (2002) 629 final (Nov. 20, 2002), available at http://www.eu.int/eur-lex/en/com/cnc/2002/com2002_0629en01.pdf. These benchmarks stated that by 2010, all Member States should accomplish the following: (1) at least halve the rate of early school leavers, with reference to the rate recorded in the year 2000, in order to achieve an EU-average rate of ten percent or less; (2) at least halve the level of gender imbalance among graduates in mathematics, science, and technology whilst securing an overall significant increase of the total number of graduates, compared to the year 2000; (3) ensure that average percentage of people ages twenty-five to sixty-four in the EU with at least upper secondary education reaches eighty percent or more; (4) halve the percentage of low-achieving 15-year-olds in reading, mathematical and scientific literacy in each Member State; and (5) achieve a fifteen percent participation level from the adult working age population (ages 25 to 64) in lifelong learning and ensure that the participation rate never dips below a ten percent rate. *Id.* In addition to these five benchmarks, the Commission Communication invited Member States to continue to contribute to the achievement of the Lisbon objective of substantial annual increases in per capita investments in human resources, and to set transparent benchmarks to be communicated to the Council and Commission. *Id.*

103. *See id.* (detailing goals to halve the rate of early school leavers and reducing the percentage of low-achieving 15-year-olds).

104. *See id.* ¶ 19 (citing the e-Learning and e-Europe 2002 and 2005 action plans, the Lifelong Learning Communication, the Skills and Mobility Action Plan, the Communication More Research for Europe—towards three percent of GDP, and plans targeting such fields as mastering foreign languages, educational mobility, and the relationship with gender dimension in Community policies).

105. *Commission Communication, A Coherent Framework of Indicators and Benchmarks for Monitoring Progress Towards the Lisbon Objectives in Education and Training*, § 1, at 3, COM (2007) 61 final (Feb. 21, 2007), available at http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0061en01.pdf.

been overlap between these developments.¹⁰⁶ Thus, some of the documents and initiatives developed for the EU's Lisbon Strategy have been relied upon in the Bologna Process.

5. Eurydice

Eurydice is another EU-related initiative that plays an important role in the Bologna Process. Eurydice is the EU-sponsored "institutional network for gathering, monitoring, processing and circulating reliable and readily comparable information on education systems and policies throughout Europe."¹⁰⁷ Eurydice's website and database includes information about the education systems of the EU Member States, the three countries of the European Free Trade Association who also are members of the European Economic Area (Iceland, Liechtenstein, and Norway), and the EU candidate Turkey.¹⁰⁸ Eurydice collects information on all levels of education, ranging from pre-school through higher education.¹⁰⁹

Eurydice was established in 1980 by the European Commission and the EU Member States.¹¹⁰ It consists of a European Unit that is based in Brussels and National Units that are based in the respective countries.¹¹¹ Eurydice maintains an extensive website.¹¹² It also publishes reports on the organization of education systems, comparative studies on topics of interest, and papers related to educational policies, including "structures, reforms and trends."¹¹³ Since 1995, Eurydice has been used as an integral part of the EU Socrates program.¹¹⁴ Eurydice has provided several of the key studies on which the Bologna Process participants have relied, and its "National Trends" reports have provided important country-by-

106. See, e.g., *infra* note 364 and accompanying text (explaining that the Bologna Process Ministers have pledged close cooperation with the EU's Lisbon Strategy).

107. Eurydice, About Eurydice, <http://www.eurydice.org/portal/page/portal/Eurydice/AboutEurydice> (last visited Nov. 1, 2007) [hereinafter About Eurydice].

108. *Id.*

109. See *id.* (stating that the network covers all education systems and all levels of education).

110. *Id.*

111. *Id.* The European Unit "coordinates the activity of the network, drafts and distributes most of its publications, and designs and administers Eurydice databases and the central website." *Id.* Among other things, the national units provide much of the underlying data and help distribute the information prepared by Eurydice. *Id.*

112. Eurydice, The Information Network on Education in Europe, <http://www.eurydice.org/portal/page/portal/Eurydice/> (last visited Nov. 5, 2007).

113. About Eurydice, *supra* note 107.

114. *Id.* See generally SOCRATES-ERASMUS Program, *supra* note 72 (providing additional information about the Socrates exchange program).

country information.¹¹⁵ Therefore, when studying the Bologna Process, it is necessary to be familiar with Eurydice and its work.

6. The *Morgenbesser* Case

The European Court of Justice's *Morgenbesser* case is another EU development that provides important context for the Bologna Process and likely will provide added momentum to its development. Although *Morgenbesser* occurred in a legal education setting, its impact is much broader since it addressed higher-education recognition issues.¹¹⁶ Ms. Morgenbesser was a French national who had graduated with a French law degree.¹¹⁷ Following her law school graduation, she worked for eight months in Paris and then joined an Italian law firm in Genoa.¹¹⁸ Because she had not completed the mandatory training period and registered with a French bar, however, she was not yet entitled to become a French lawyer or *avocat*.¹¹⁹ She thereafter applied to the Genoa Bar for admission as a *praticanti* (trainee lawyer).¹²⁰ She was rejected by the Genoa Bar on the grounds that she did not have the necessary qualifications because she lacked an Italian law degree.¹²¹ She appealed, and the issue ultimately was referred to the European Court of Justice.¹²²

The European Court of Justice concluded that Ms. Morgenbesser could not take advantage of any of the existing EU directives applicable to lawyers because those directives were limited to those who already were lawyers, i.e., to those who were finished products.¹²³ Although these directives did not apply to Ms. Morgenbesser, the European Court of Justice concluded that the Genoa Bar nevertheless had erred.¹²⁴ The Court found that under

115. EURYDICE, FOCUS ON THE STRUCTURE OF HIGHER EDUCATION IN EUROPE 2006/07: NATIONAL TRENDS IN THE BOLOGNA PROCESS (Apr. 2007), available at http://www.eurydice.org/resources/eurydice/pdf/0_integral/086EN.pdf [hereinafter EURYDICE NATIONAL TRENDS 2006/07]; EURYDICE, FOCUS ON THE STRUCTURE OF HIGHER EDUCATION IN EUROPE 2004/05: NATIONAL TRENDS IN THE BOLOGNA PROCESS (Apr. 2005), available at http://www.bologna-bergen2005.no/Docs/02Eurydice/0504_Eurydice_National_trends.pdf [hereinafter EURYDICE NATIONAL TRENDS 2004/05]. For a discussion of these reports, see *infra* notes 411–12 and accompanying text.

116. Case C-313/01, *Morgenbesser v. Consiglio dell'Ordine degli avvocati di Genova*, 2003 E.C.R. I-13467.

117. See *id.* ¶ 25 (stating that Morgenbesser submitted a “diploma of ‘maîtrise en droit’ obtained in France” to the Council of the Bar Association).

118. *Id.*

119. *Id.* ¶ 27.

120. *Id.* ¶¶ 25–26.

121. *Id.* ¶ 26.

122. Case C-313/01, *Morgenbesser v. Consiglio dell'Ordine degli avvocati di Genova*, 2003 E.C.R. I-13467.

123. *Id.* ¶¶ 45–55. See generally *infra* notes 247–274 and accompanying text for a discussion of the EU directives applicable to cross-border legal practice.

124. *Id.* ¶¶ 55, 72.

the relevant EU Treaty provisions,¹²⁵ Ms. Morgenbesser was entitled to be viewed holistically.¹²⁶ The Court stated that the competent authorities must examine

whether, and to what extent, the knowledge certified by the diploma granted in another Member State and the qualifications or professional experience obtained there, together with the experience obtained in the Member State in which the candidate seeks enrolment, must be regarded as satisfying, even partially, the conditions required for access to the activity concerned. That examination procedure must enable the authorities of the host Member State to assure themselves, on an objective basis, that the foreign diploma certifies that its holder has knowledge and qualifications which are, if not identical, at least equivalent to those certified by the national diploma. That assessment of the equivalence of the foreign diploma must be carried out exclusively in the light of the level of knowledge and qualifications which its holder can be assumed to possess having regard to that diploma, having regard to the nature and duration of the studies and practical training to which the diploma relates.¹²⁷

In other words, Ms. Morgenbesser wasn't entitled to recognition, but she was entitled to a recognition *procedure* that examined the specifics of her qualifications and did not simply make a formalistic decision based on the absence of an Italian law degree.

The *Morgenbesser* case sent a shock wave through European Bars because it meant that they had to change their existing lawyer-admission practices.¹²⁸ The Council of Bars and Law Societies of Europe (CCBE) issued a set of guidelines for its bars on the meaning of the *Morgenbesser* case.¹²⁹ The impact of *Morgenbesser*, however, is

125. The Court found that both Article 39 (freedom of movement for workers) and Article 43 (freedom of establishment) would support this result. *Id.* ¶ 61.

126. *Id.* ¶¶ 65–69.

127. *Id.* ¶¶ 67–68.

128. See Julian Lonbay, *Legal Ethics and Professional Responsibility in a Global Context*, 4 WASH. U. GLOBAL STUD. L. REV. 609, 611–12 (2005) (discussing the various European regulations and procedures with regard to transmigration of attorneys).

129. CCBE, CHRONOLOGY (I), ANALYSIS (II) AND GUIDANCE (III) TO BARS AND LAW SOCIETIES REGARDING CASE C-313/01 *CHRISTINE MORGENBESSER V CONSIGLIO DELL'ORDINE DEGLI AVVOCATI DI GENOVA* (Jan. 2004), available at http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/morgenbesser_guidanc1_1183976940.pdf (last visited Nov. 1, 2007) [hereinafter CCBE MORGENBESSER GUIDELINES]. Among other things, these Guidelines told bars that in evaluating whether to admit the potential lawyer to its training program, the competent authority in the country must assess

holistically, . . . all the applicant's abilities, knowledge and competences to carry out the professional role of 'lawyer' in the host country. The knowledge, learning and skills of applicants have to be taken as a whole, and there can be no prior requirement of equivalence of the academic stage of training.

Id. at 5. For additional commentary on the *Morgenbesser* case, see Julian Lonbay, *Have Law Degree—Will Travel: Christine Morgenbesser v Consiglio dell'Ordine degli Avvocati di Genova (case C-313/01), 5th Chamber (13 November 2003)*, 1 EUR. J. LEGAL

not limited to lawyers, the bars, and legal education. The *Morgenbesser* case is an important development for the Bologna Process because it places additional pressure on EU countries to have a process that will provide information about higher education systems and promote greater recognition of degrees.

7. Other EU Initiatives

Although the initiatives listed above are among the most important EU initiatives related to the Bologna Process, they are by no means the only such initiatives.¹³⁰ The EU provides extensive support to the Bologna Process¹³¹ and has parallel developments in a number of other areas, including the qualifications framework.¹³² In sum, although the Bologna Process is not an EU initiative, many of the Bologna Process initiatives have significant overlap with EU higher education initiatives. In some cases, these EU developments have provided the impetus for the Bologna Process. In other cases, these EU developments have occurred parallel to or after the Bologna Process developments. Regardless of the timing, these EU initiatives

EDUC. 69 (2004). For additional information on the CCBE, see *infra* notes 291–92 and accompanying text.

130. See, e.g., European Comm'n, Directorate-Gen. for Educ. & Culture, *From Bergen to London: The Contribution of the European Commission to the Bologna Process*, at 8–9 (May 7, 2007), available at <http://ec.europa.eu/education/policies/educ/bologna/report06.pdf> [hereinafter *2007 EU Contribution*] (citing the following programs: European Charter for Researchers, DOC-Careers- From Innovative Doctoral Training to Enhanced Career Opportunities, Erasmus Mundus, and Lifelong Learning Program 2007–2013).

131. See, e.g., HOUSE OF COMMONS EDUCATION & SKILLS COMMITTEE, THE BOLOGNA PROCESS: GOVERNMENT RESPONSE TO THE COMMITTEE'S FOURTH REPORT OF SESSION 2006–07, 2006-7, H.C. 788, available at <http://www.publications.parliament.uk/pa/cm/200607/cmselect/cmmeduski/788/788.pdf> (asking the U.K. Department of Education and Skills to comment on whether the EU was using the Bologna Process in a manner to expand its role in education); DEPARTMENT FOR EDUCATION AND SKILLS, BOLOGNA PROCESS: EXCELLENCE THROUGH ENGAGEMENT (2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/070516FINALv2.pdf> (labeling as a “myth” the proposition that the European Commission is trying to take over the Bologna Process).

132. On April 23, 2008, the European Parliament and the European Council adopted the European Qualifications Framework, which was designed to encompass all levels of education and training, promote mobility and lifelong learning, and be fully compatible with the Bologna Process' Qualifications Framework entitled “Framework for Qualifications of the European Higher Education Area.” Press Release, European Commission, The European Qualifications Framework: a new tool to translate qualifications, IP/08/631 (Apr. 23, 2008), available at <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/631&format=HTML&aged=0&language=EN&guiLanguage=fr>. See generally The European Qualifications Framework, http://ec.europa.eu/education/policies/educ/eqf/index_en.html (last visited Nov. 1, 2007) (including status information and background documents, and noting that “the EQF will be formally adopted [by the Council] in the coming weeks”).

are an important part of the context in which the Bologna Process operates.

B. *Intergovernmental Participating Organizations and their Initiatives*

In addition to the European Union, the Council of Europe and UNESCO (a United Nations entity) are intergovernmental organizations that participate in the Bologna Process. The Bologna Process has embraced initiatives developed by both of these organizations.

1. UNESCO (including the UNESCO Centre for Higher Education, known as UNESCO-CEPES)

UNESCO is the acronym for the United Nations Educational, Scientific, and Cultural Organization, which was founded in 1945.¹³³ One of UNESCO's goals is to "promote[] international co-operation among its 193 Member States and six Associate Members in the fields of education, science, culture and communication."¹³⁴ As the only United Nations entity with a mandate to support national capacity-building in higher education, it has played a leading role in the worldwide reflection on higher-education reform.¹³⁵ It also has played a leading role in developments related to the Bologna Process.

One of the participating organizations in the Bologna Process is the UNESCO European Centre for Higher Education, known as UNESCO-CEPES.¹³⁶ UNESCO-CEPES was established in September 1972 in order to promote higher education cooperation in the "Europe Region," which it defines as "the countries of Europe, North America, and Israel."¹³⁷ UNESCO-CEPES currently is based in Bucharest, Romania.¹³⁸ Although its activities are varied, the Bologna Process is a key focus of its mission.¹³⁹ Since 1984,

133. About UNESCO, <http://www.unesco.org/> (click on "About UNESCO" in the menu on the right-hand side) (last visited Nov. 1, 2007).

134. *Id.*

135. UNESCO, Higher Education, <http://portal.unesco.org/education> (click on the "Higher Education" hyperlink in the "Themes" menu on the left-hand side) (last visited Nov. 1, 2007).

136. UNESCO-CEPES, Mission, <http://www.cepes.ro/cepes/mission.htm> (last visited Nov. 1, 2007).

137. *Id.* The idea for this center has its roots in the First Conference of Ministers of Education of European Member States of UNESCO (MINEDEUROPE I) in 1967. UNESCO-CEPES, Brief History of the Centre, <http://www.cepes.ro/cepes/history.htm> (last visited Nov. 1, 2007) [hereinafter CEPES, A Brief History]. In 1970, the UNESCO Board recommended the creation of the organization. *Id.*

138. *Id.*

139. UNESCO-CEPES, Mission, *supra* note 136. According to its webpage, UNESCO-CEPES does the following "[t]o fulfill its mission":

UNESCO-CEPES has also served as the Secretariat of the UNESCO Regional Committee for the Application of the Convention on the Recognition of Studies, Diplomas, and Degrees Concerning Higher Education in the States Belonging to the Europe Region.¹⁴⁰ As a result, it has been active in a number of different areas related to the Bologna Process.¹⁴¹

2. Council of Europe

The Council of Europe is another governmental-level Bologna Process participating organization.¹⁴² Founded in 1949, the Council is headquartered in Strasbourg, France, and is Europe's oldest political organization.¹⁴³ It is a different organization than the EU institution called the European Council.¹⁴⁴ The Council of Europe has explained its mission as follows:

-
- undertakes projects relevant to the development and reform of higher education, specifically in view of the follow-up to the 1998 UNESCO World Conference on Higher Education and the Bologna Process aiming at the creation of the European Higher Education Area;
 - promotes policy development and research on higher education and serves as a forum for the discussion of important topics in higher education;
 - gathers and disseminates a wide range of information on higher education;
 - coordinates, within the UNITWIN/UNESCO Chairs Programme, relations with a designated number of UNESCO Chairs relevant to its activities;
 - serves as the secretariat or co-secretariat of specialized networks, especially those related to the implementation of the Council of Europe/UNESCO Convention on the Recognition of Qualifications Concerning Higher Education in the Europe Region [since 2007 it is assuring operational aspects of the ENIC-NARIC website <http://www.enic-naric.net>];
 - provides consultancy services;
 - participates in the activities of other governmental and non-governmental organizations;
 - serves as a link between UNESCO Headquarters and Romania

Id.

140. CEPES—A Brief History, *supra* note 137.

141. *Id.*

142. COUNCIL OF EUR., DIRECTORATE GEN. IV: EDUC., CULTURE & HERITAGE, YOUTH & SPORT, *Contributions to the Bologna Process*, at 2, Doc. No. DGIV/EDU/HE (2003) 10, available at http://www.bologna-berlin2003.de/pdf/Council_Bologna_Process.pdf [hereinafter *Contributions to the Bologna Process 2003*]; Council of Europe, Contribution of the Council of Europe to the Bologna Process in 2006, http://www.coe.int/t/dg4/highereducation/EHEA2010/Coe_and_Bologna_2006_EN.asp (last visited Nov. 1, 2007).

143. Council of Europe, About the Council of Europe, http://www.coe.int/T/e/Com/about_coe/ (last visited Nov. 1, 2007).

144. See The Council of the European Union, EU Council, *supra* note 88 (describing the EU institution called the European Council).

The Council was set up to: defend human rights, parliamentary democracy and the rule of law, develop continent-wide agreements to standardise member countries' social and legal practices, promote awareness of a European identity based on shared values and cutting across different cultures. Since 1989, its main job has become acting as a political anchor and human rights watchdog for Europe's post-communist democracies, assisting the countries of central and eastern Europe in carrying out and consolidating political, legal and constitutional reform in parallel with economic reform, providing know-how in areas such as human rights, local democracy, education, culture and the environment.¹⁴⁵

The Council of Europe is much larger than the EU, with forty-seven members and one applicant country, which is Belarus.¹⁴⁶ The Council of Europe has granted observer status to five countries: the Holy See, Canada, Japan, Mexico, and the United States.¹⁴⁷ No country has ever joined the EU without first belonging to the Council of Europe.¹⁴⁸ Except for the Holy See, which is an observer in the Council of Europe, all Bologna Process participants are full members of the Council of Europe, but not all Council of Europe members participate in the Bologna Process.¹⁴⁹ The Subparts that follow discuss a number of initiatives that have influenced the Bologna Process and are either sponsored or co-sponsored by the Council of Europe. In addition to these initiatives, the Council of Europe has sponsored conferences, published books and reports, and engaged in other activities that support the Bologna Process.¹⁵⁰

3. The European Cultural Convention

The European Cultural Convention is a Council of Europe initiative that was signed in 1954.¹⁵¹ Its purpose is, among other things, to promote understanding and mobility within Europe.¹⁵²

145. Council of Europe, Council of Europe and European Union, http://www.coe.int/t/dg3/romatravellers/documentation/coeeu_en.asp (last visited Nov. 1, 2007).

146. *Id.* Belarus is not a member of the Bologna Process or the EU. See *infra* app. 1 (listing all Bologna Process participants).

147. Council of Europe, Council of Europe and European Union, *supra* note 145.

148. *Id.*

149. See *infra* app. 1 (noting that Monaco and San Marino are members of the Council of Europe but are not Bologna Process members).

150. COUNCIL OF EUR., DIRECTORATE GEN. IV: EDUC., CULTURE & HERITAGE, YOUTH & SPORT, *From Bergen to London: The Contribution of the Council of Europe to the Bologna Process*, at 3–8, Doc. No. DGIV/EDU/HE (2007) 3 rev., available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/CoEconttotheBP210507.doc> [hereinafter *2007 Council of Europe Contribution*].

151. Council of Europe, European Cultural Convention, Dec. 19, 1954, C.E.T.S. No. 018.

152. Council of Europe, 1954–2004: 50th Anniversary of the European Cultural Convention, http://www.coe.int/t/dg4/culturalconvention/Origines_en.asp (last visited Nov. 1, 2007) [hereinafter *About the European Cultural Convention*].

Historically, most members of the Council of Europe ratified the European Cultural Convention before joining the Council of Europe.¹⁵³ In order to join the Bologna Process, a country must have signed the European Cultural Convention.¹⁵⁴ In 2007, several countries were turned down for membership because they were not signatories to this Convention.¹⁵⁵

4. The 1997 Council of Europe/UNESCO Lisbon Convention

The 1997 Lisbon Convention¹⁵⁶ was jointly developed by UNESCO and the Council of Europe in order to supplement the existing conventions concerning recognition of higher-education degrees.¹⁵⁷ As of September 2007, forty-five countries, including a number of the Bologna Process participants, had ratified the Lisbon Convention.¹⁵⁸ Ratification of the Lisbon Convention is one of the benchmarks used in the 2005 and 2007 Bologna Process Stocktaking Reports.¹⁵⁹

The Lisbon Convention contains nine major points of agreement with respect to recognition of higher education degrees:

153. *Id.* Its mission has been described as follows:

The Convention . . . purports to further understanding of one another among the peoples of Europe and mutual appreciation of their diverse cultural traits, particularly by facilitating the movement of persons and cultural objects. Next, it aims to encourage national contributions to the common cultural heritage of Europe. Lastly, it seeks to promote cultural activities of European interest so as to preserve European culture.

Id.

154. See About the Bologna Process, <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/about/> (last visited Nov. 1, 2007) (stating that all participating countries are party to the European Cultural Convention).

155. See Berlin Communiqué, *supra* note 8, at 8 (“Countries party to the European Cultural Convention shall be eligible for membership . . .”).

156. Convention on the Recognition of Qualifications Concerning Higher Education in the European Region, Council of Eur.-UNESCO, Apr. 11, 1997, C.E.T.S. No. 165 [hereinafter Lisbon Convention].

157. COUNCIL OF EUR., CONVENTION ON THE RECOGNITION OF QUALIFICATIONS CONCERNING HIGHER EDUCATION IN THE EUROPEAN REGION: EXPLANATORY REPORT, available at <http://conventions.coe.int/Treaty/EN/Reports/Html/165.htm> (last visited Nov. 1, 2007) [hereinafter LISBON CONVENTION EXPLANATORY REPORT]. For a list of additional conventions relevant to higher education, see Lisbon Convention, *supra* note 156, pmb1.

158. Convention on the Recognition of Qualifications Concerning Higher Education in the European Region: Status as of 19/12/2007, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=165&CM=&DF=&CL=ENG> (last visited Dec. 19, 2007) [hereinafter Lisbon Signatories]. Five countries had signed, but not ratified, the Lisbon Convention. *Id.*

159. 2005 STOCKTAKING, *supra* note 35; 2007 STOCKTAKING, *supra* note 39.

- (1) “[h]olders of qualifications issued in one country shall have adequate access to an assessment of these qualifications in another country[;]”
- (2) “[there should be no discrimination] on any ground such as the applicant’s gender, race, colour, disability, language, religion, political opinion, national, ethnic or social origin[;]”
- (3) the body undertaking the assessment has the “responsibility to demonstrate that an application does not fulfil the relevant requirements[;]”
- (4) each country has an obligation to recognize higher education qualifications and degrees as similar to its own “unless it can show that there are substantial differences between its own qualifications and the qualifications for which recognition is sought[;]”
- (5) “[r]ecognition of a higher education qualification issued in another country shall have one or both” of two consequences: “access to further higher education studies, including relevant examinations and preparations for the doctorate, on the same conditions as candidates from the country in which recognition is sought;” and “the use of an academic title, subject to the laws and regulations of the country in which recognition is sought[;]”
- (6) “[a]ll countries shall develop procedures to assess whether refugees and displaced persons fulfil the relevant requirements for access to higher education or to employment activities, even in cases in which the qualifications cannot be proven through documentary evidence[;]”
- (7) “[a]ll countries shall provide information on the institutions and programmes they consider as belonging to their higher education systems[;]”
- (8) “[a]ll countries shall appoint a national information centre, one important task of which is to offer advice on the recognition of foreign qualifications to students, graduates, employers, higher education institutions and other interested parties or persons[;]” and
- (9) “[a]ll countries shall encourage their higher education institutions to issue the Diploma Supplement to their students in order to facilitate recognition.”¹⁶⁰

160. The Lisbon Convention—What is it?, http://www.bologna-bergen2005.no/Docs/03-PNY/Lisbon_for_pedestrians.pdf (last visited Nov. 4, 2007) [hereinafter *Bologna Explanation of the Lisbon Convention*].

The committee responsible for implementing the Lisbon Convention has adopted a number of supplementary documents.¹⁶¹ These include the *Recommendations on the recognition of Joint Degrees* (June 2004), the *Code of Good Practice in the provision of transnational education* (June 2001), the *Recommendation on Criteria and Procedures for the Assessment on Foreign Qualifications* (2001), and the *Recommendation on International Access Qualifications* (1999).¹⁶²

5. Diploma Supplement

Another governmental initiative relevant to the Bologna Process is the Diploma Supplement. The Diploma Supplement was developed initially by UNESCO, but was later revised jointly by UNESCO, the European Commission, and the Council of Europe.¹⁶³ The Diploma Supplement is, in essence, a standardized form that higher-education institutions attach to each higher-education diploma in order to explain the diploma's meaning to those from other countries.¹⁶⁴ The Diploma Supplement includes items such as the name of the degree, information on the contents of the degree (including the units studied), individual grades, the grading scheme and grade distribution, and information on whether the degree provides access to further study or confers professional status.¹⁶⁵ The Diploma Supplement is considered to be one of the subsidiary texts to the Lisbon Convention because the Lisbon Convention signatories agreed to encourage their higher education institutions to issue the Diploma Supplement to facilitate recognition.¹⁶⁶ The Diploma Supplement is an important part of the Bologna Process because the participants have used it as a benchmark to measure their progress in achieving their "recognition of degrees" priority objective.¹⁶⁷ Thus, one cannot understand the Bologna Process unless one is also familiar with the Diploma Supplement.

161. See Council of Europe, The Lisbon Recognition Convention, http://www.coe.int/t/dg4/highereducation/Recognition/LRC_en.asp (last visited Nov. 4, 2007) [hereinafter Council of Europe Lisbon Convention Website] (providing links to several supplementary documents).

162. *Id.*

163. See UNESCO, Diploma Supplement, http://portal.unesco.org/education/en/ev.php-URL_ID=22345&URL_DO=DO_TOPIC&URL_SECTION=201.html (last visited Nov. 4, 2007); European Commission, The Diploma Supplement, http://ec.europa.eu/education/policies/rec_qual/recognition/diploma_en.html (last visited Nov. 4, 2007) [hereinafter Diploma Supplement].

164. Diploma Supplement, *supra* note 163.

165. *Id.*

166. Lisbon Convention, *supra* note 156.

167. 2007 STOCKTAKING, *supra* note 39; 2005 STOCKTAKING, *supra* note 35.

6. ENIC/NARIC Networks

Another governmental initiative relevant to the Bologna Process is the ENIC/NARIC Networks. ENIC/NARIC represents a collaboration of networks operated on the one hand by the Council of Europe and UNESCO, and on the other hand by the EU; the EU network is called the National Academic Recognition Information Centres (NARIC) and the UNESCO-Council of Europe network is called the European Network of Information Centres in the European Region (ENIC).¹⁶⁸ Both networks focus on issues of academic recognition and mobility.¹⁶⁹ For example, the Information Centers that are part of the ENIC network usually provide information concerning (1) a country's "recognition of foreign diplomas, degrees[,] and other qualifications; (2) education systems in both foreign countries and the ENIC's own country; and (3) opportunities for studying abroad, including information on loans and scholarships [and] advice on practical questions related to mobility and equivalence."¹⁷⁰ In 2004, under the auspices of the Lisbon Convention, these networks agreed to cooperate and memorialized their agreement in a fourteen-page "Charter of Activities and Services."¹⁷¹ As a result, there is now an extensive, joint ENIC/NARIC webpage that contains thousands of pages of documents.¹⁷² The ENIC/NARIC Networks have submitted documents jointly to the Bologna Process and are important contributors to Bologna Process discussions and developments.¹⁷³

7. OECD/UNESCO Guidelines for Quality Provision in Cross-Border Higher Education

Another UNESCO project relevant to the Bologna Process is the UNESCO guidelines on "Quality provision in cross-border higher education."¹⁷⁴ In 2003, UNESCO and the Organisation for Economic

168. ENIC-NARIC.net, About Us, <http://www.enic-naric.net/index.aspx?s=n&r=g&d=about> (last visited Nov. 4, 2007) [hereinafter About ENIC-NARIC].

169. *Id.*

170. *Id.*

171. Comm. of the Convention on the Recognition of Qualifications Concerning Higher Educ. in the European Region, *Joint ENIC/NARIC Charter of Activities and Services* (June 9, 2004), available at <http://www.enic-naric.net/documents/Charter.en.pdf>.

172. About ENIC-NARIC, *supra* note 168.

173. See, e.g., London Communiqué, *supra* note 17, ¶ 2.6 ("To improve recognition practices, we therefore ask the Bologna Follow-up Group (BFUG) to arrange for the ENIC/NARIC networks to analyse our national action plans and spread good practice.").

174. UNESCO, *Guidelines for Quality Provision in Cross-border Higher Education*, U.N. Doc. ED/2006/WS/1 (2005), available at <http://unesdoc.unesco.org/images/0014/001433/143349e.pdf> [hereinafter *UNESCO Guidelines*].

Co-operation and Development (OECD)¹⁷⁵ were asked to develop non-binding guidelines on quality provision in cross-border higher education.¹⁷⁶ After several drafts and meetings at which stakeholder input was sought,¹⁷⁷ the final version was adopted in 2005 in Paris.¹⁷⁸ The four policy objectives in these Guidelines overlap many of the policy objectives of the Bologna Process.¹⁷⁹

In sum, there are several intergovernmental organizations and initiatives that are an important part of the Bologna Process.

C. Other Bologna Process Participating Organizations and Stakeholders

In addition to the intergovernmental organizations that are participating entities in the Bologna Process, there are a number of nongovernmental entities that have been recognized as consultative members or “participating organizations.”¹⁸⁰ These stakeholder groups have played an important role in the Bologna Process; in addition to providing commentary and sharing their perspectives, a number of these groups have developed documents and policies that were later adopted as part of the Bologna Process. They are listed below in the order in which they appear on the Bologna Process webpage.¹⁸¹

1. European University Association (EUA)

The European University Association (EUA) represents European universities and the national rectors’ conferences in individual European countries.¹⁸² It was formed in 2001 and merged

175. The Organisation for Economic Co-operation and Development (OECD) consists of thirty member countries that share a commitment to democratic government and the market economy. OECD, About OECD, <http://www.oecd.org/> (follow “About OECD” hyperlink under “Browse”) (last visited Nov. 4, 2007).

176. *UNESCO Guidelines*, *supra* note 174, at 9.

177. *See id.* at 8 (discussing the rationale for the Guidelines).

178. *See generally id.* (noting the date and location of the Guideline adoption).

179. *Id.* The four main policy objectives for the UNESCO Guidelines were: (1) “Students/learners’ protection” from the risks of misinformation, low-quality provision and qualifications of limited validity; (2) qualifications should be readable and transparent in order to increase their international validity and portability. Reliable and user-friendly information sources should facilitate this; (3) recognition procedures should be transparent, coherent, fair and reliable and impose as little burden as possible to mobile professionals; and (4) national quality assurance and accreditation agencies need to intensify their international cooperation in order to increase mutual understanding. *Id.* at 6–10.

180. Benelux Bologna, Bologna Participating Organizations, *supra* note 13; Bergen Bologna, Consultative Members, *supra* note 49.

181. Benelux Bologna, Bologna Participating Organizations, *supra* note 13.

182. *See* European University Association [EUA], EUA at a Glance, <http://www.eua.be/index.php?id=280> (last visited Nov. 4, 2007) (“EUA is the result of a

the existing university and rectors' associations.¹⁸³ The goal of the merger was to create a single organization to represent the entire university community in Europe, with a stronger voice and a more powerful presence.¹⁸⁴

The EUA has stated that its mission "is to promote the development of a coherent system of European higher education and research," and to achieve this through "active support and guidance to its members" as autonomous institutions in enhancing the quality of their teaching, learning, and research, as well as their "contributions to society."¹⁸⁵ In order to be a full member of the EUA, an institution must award doctorate degrees.¹⁸⁶ The EUA is a consultative member of the Bologna Process.¹⁸⁷ It is an important stakeholder and is a member of the so-called E4 Group, along with the European Association of Institutions in Higher Education (EURASHE), the European Students' Union (ESU), and the European Association for Quality Assurance in Higher Education (ENQA).¹⁸⁸ Starting in 1999, the EUA has biennially produced a report called "Trends" that examines higher education in Europe, including implementation of the Bologna Process.¹⁸⁹ The most recent report is Trends V, which was issued in May 2007 in connection with the London Ministerial Conference.¹⁹⁰ The EUA also has issued a Bologna Process Handbook and brochure for universities, sponsored conferences, and prepared a number of other reports that are relevant to the Bologna Process initiatives.¹⁹¹

merger between the Association of European Universities (CRE) and the Confederation of European Union Rectors' Conferences . . .").

183. *Id.*

184. EUA, Activities, <http://www.eua.be/index.php?id=284> (last visited Nov. 4, 2007).

185. EUA, *Articles of Association for the European University Association*, Mar. 31, 2001, http://www.eua.be/eua/jsp/en/upload/EUA_Articles_en.1095951291638.pdf [hereinafter *EUA Articles of Association*].

186. *Id.* at 1.

187. Benelux Bologna, Bologna Participating Organizations, *supra* note 13.

188. European Association for Quality Assurance in Higher Education [ENQA], Cooperation with Stakeholders, <http://www.enqa.eu/stakeholders.lasso> (last visited Nov. 4, 2007).

189. See EUA, Publications: EUA Studies, <http://www.eua.be/index.php?id=128#c400> (last visited Nov. 4, 2007) [hereinafter Trends I–IV] (providing links to all Trends Reports issued by the EUA).

190. DAVID CROSIER, LEWIS PURSER, & HANNE SMIDT, EUROPEAN UNIV. ASS'N, TRENDS V: UNIVERSITIES SHAPING THE EUROPEAN HIGHER EDUCATION AREA (2007), available at http://www.eua.be/fileadmin/user_upload/files/Publications/Trends_V_universities_shaping_the_european_higher_education_area.pdf [hereinafter TRENDS V].

191. Trends I–IV, *supra* note 189.

2. European Association of Institutions in Higher Education (EURASHE)

The European Association of Institutions in Higher Education (EURASHE) is another important stakeholder in the Bologna Process. Like the EUA, EURASHE is a Bologna Process consultative member or “participating organisation.”¹⁹² One key difference between EURASHE and the EUA is that full membership in the EUA is limited to institutions that award doctoral degrees, whereas membership in EURASHE is open to all higher education institutions.¹⁹³ EURASHE members include both individual institutions and national organizations of higher education institutions.¹⁹⁴ EURASHE has been an important voice in the Bologna Process and is currently a member of the E4 Group.¹⁹⁵

3. European Students’ Union (ESU, formerly ESIB)

The European Students’ Union¹⁹⁶ (ESU, also known as ESIB) is another Bologna Process consultative member or “participating organisation.”¹⁹⁷ It is an “umbrella organization of [forty-seven] national unions of students from [thirty-six] countries,” representing ten million students in Europe.¹⁹⁸ Its goals include “promot[ing] the educational, social, economic, and cultural interests of students . . . [in the] European Union, Council of Europe, and UNESCO.”¹⁹⁹ The European Students’ Union has undergone several name changes as its mission has been refined; the Union adopted its current name in May 2007.²⁰⁰ Thus, almost all of its Bologna Process

192. Benelux Bologna, Bologna Participating Organizations, *supra* note 13.

193. Compare *EUA Articles of Association*, *supra* note 185, at 1 (“A University with full power to award doctoral degrees shall be eligible to apply for Individual Full Membership.”), with European Association of Institutions in Higher Education [EURASHE], Introduction, <http://www.eurashe.eu/RunScript.asp?page=108&p=ASP\Pg108.asp> (last visited Nov. 4, 2007) (“EURASHE . . . is the (international) association of European Higher Education Institutions—Polytechnics, Colleges, University Colleges, etc.—devoted to Professional Higher Education and related research within the Bachelor–Masters structure.”).

194. EURASHE, List of Members, <http://www.eurashe.eu/RunScript.asp?page=99&p=ASP\Pg99.asp> (last visited Nov. 4, 2007).

195. ENQA, Cooperation with Stakeholders, *supra* note 188.

196. European Students’ Union [ESU], About ESU, http://www.esib.org/index.php?option=com_content&task=section&id=4&Itemid=241 (last visited Nov. 4, 2007).

197. Benelux Bologna, Bologna Participating Organizations, *supra* note 13.

198. ESU, About ESU, *supra* note 196.

199. *Id.*

200. See ESU, History of ESU, http://www.esib.org/index.php?option=com_content&task=category§ionid=4&id=73&Itemid=242 (last visited Nov. 4, 2007) (explaining the evolution from the Western European Student Information

documents reflect the organization's earlier name, the National Union of Students or ESIB.²⁰¹ ESU/ESIB was first recognized as a consultative member of the Bologna Process in 2001.²⁰² In 2003, 2005, and 2007, it produced influential reports entitled "Bologna With Student Eyes."²⁰³ It is a member of the E4 Group, along with EUA, EURASHE, and ENQA.²⁰⁴

4. European Association for Quality Assurance in Higher Education (ENQA)

Another Bologna Process consultative member or "participating organisation" is the European Association for Quality Assurance in Higher Education, commonly known as ENQA.²⁰⁵ ENQA was formed in 2000, after the start of the Bologna Process, in order to "promote European co-operation in the field of quality assurance."²⁰⁶ It adopted its current name in 2004.²⁰⁷

ENQA is one of the most important stakeholders in the Bologna Process and is part of the E4 Group.²⁰⁸ ENQA "disseminates information, experiences and good practices in the field of [higher education] quality assurance"²⁰⁹ It gives this information to "European [quality assurance] agencies, public authorities and higher education institutions."²¹⁰ ENQA membership is "open to all quality assurance agencies in the signatory states of the Bologna

Bureau (WESIB) to European Student Information Bureau (ESIB) to National Union of Students to European Students' Association).

201. See ESU, Downloads, http://www.esib.org/index.php?option=com_docman&Itemid=263 (last visited Nov. 4, 2007) (displaying a number of documents using the names National Union of Students and ESIB).

202. ESU, History of ESU, *supra* note 200.

203. See ESU, Surveys: Bologna with Student Eyes, http://www.esib.org/index.php?option=com_docman&task=cat_view&gid=129&Itemid=263 (last visited Nov. 4, 2007) (making available all three editions of "Bologna with Student Eyes").

204. ENQA, Cooperation with Stakeholders, *supra* note 188.

205. Benelux Bologna, Bologna Participating Organizations, *supra* note 13.

206. ENQA, History, <http://www.enqa.eu/history.lasso> (last visited Nov. 4, 2007). According to ENQA's webpage,

[t]he idea for [ENQA] originates from the European Pilot Project for Evaluating Quality in Higher Education (1994-95) which demonstrated the value of sharing and developing experience in the area of quality assurance. Subsequently, the idea was given momentum by the Recommendation of the European Council (98/561/EC of 24 September 1998) on European co-operation in quality assurance in higher education and by the Bologna Declaration of 1999.

Id.

207. *Id.*

208. ENQA, Cooperation with Stakeholders, *supra* note 188.

209. ENQA Home Page, <http://www.enqa.eu/index.lasso> (last visited Nov. 4, 2007).

210. *Id.*

Declaration.”²¹¹ As of September 2007, ENQA had thirty-six full members, ten candidate members, two affiliate members, and ten associate members.²¹² Its Secretariat is located in Helsinki, Finland.²¹³

ENQA and its work form an integral part of the Bologna Process. It has prepared the documentation underlying the 2005 decision to adopt *European Quality Assurance Standards* and the 2007 decision to adopt a European Register of Quality Assurance Agencies.²¹⁴

5. Education International Pan-European Structure

The Bologna Process participating organization called Education International Pan-European Structure is an umbrella organization for Education International member organizations and ETUCE.²¹⁵ “Education International (EI) represents more than 30 million teachers and education workers” who work in pre-school to university settings.²¹⁶ ETUCE is the acronym for the European Trade Union Committee for Education, which was established in 1975 and represents 118 teachers’ unions in the EU and European Free Trade Association countries.²¹⁷ Although Education International Pan-European Structure does not have its own website,²¹⁸ its participant

211. ENQA, Become a Member, <http://www.enqa.eu/becomeamember.lasso> (last visited Nov. 4, 2007).

212. ENQA, Agencies, <http://www.enqa.eu/agencies.lasso> (last visited Nov. 4, 2007); ENQA, Candidate Members, <http://www.enqa.eu/candidates.lasso> (last visited Nov. 4, 2007); ENQA, Associates & Affiliates, http://www.enqa.eu/assoc_affil.lasso (last visited Nov. 4, 2007).

213. ENQA, Secretariat, <http://www.enqa.eu/secretariat.lasso> (last visited Nov. 4, 2007).

214. ENQA, REPORT ON A EUROPEAN REGISTER OF QUALITY ASSURANCE AGENCIES, *supra* note 28.

215. Education International, By-Laws of the Pan-Europe Structure, <http://www.ei-ie.org/europe/en/bylaw.php> (last visited Nov. 4, 2007).

216. Education International, About Us, <http://www.ei-ie.org/en/aboutus/> (last visited Nov. 4, 2007).

217. European Trade Union Committee for Education [ETUCE], About ETUCE, http://www.etuce.homestead.com/about_ETUCE.html (last visited Nov. 4, 2007).

218. The link from the BENELUX Bologna website goes directly to the Education International Website. Benelux Bologna, Bologna Participating Organizations, *supra* note 13. The Bergen Bologna Website linked to a page that had separate links for Education International and ETUCE. Compare Benelux Bologna, Bologna Participating Organizations, *supra* note 13 (linking to the Education International Website), with Bergen Bologna, Links, <http://www.bologna-bergen2005.no/EN/Links/EI-ETUCE.htm> (last visited Nov. 1, 2007) (linking to both the Education International Website and the ETUCE Website). However, the Education International Website does contain the bylaws of the Education International Pan-European Structure. Education International, By-Laws of the Pan-Europe Structure, *supra* note 215.

organizations have submitted joint documents in the Bologna Process and regularly prepared reports for the BFUG and its Board.²¹⁹

6. BusinessEurope (formerly UNICE)

BusinessEurope is the last entity listed as a Bologna Process “participating organization” on the current Bologna Process website.²²⁰ BusinessEurope was previously listed as a consultative member of the Bologna Process²²¹ under its former name, UNICE.²²²

The organization now known as BusinessEurope was founded in 1949 by the national industrial federations from the six member states of the European Coal & Steel Community.²²³ In 2007, the organization changed its name to BusinessEurope: The Confederation of European Business.²²⁴ In June 2007, it adopted a policy statement identifying its priorities and mission; these included implementing reforms that would lead to growth and jobs as well as reforming European social systems to respond to global challenges.²²⁵ As a consultative member, BusinessEurope/UNICE regularly reports on its activities to the BFUG and its Board.²²⁶

7. The Tuning Project

Although the Tuning Project is not a consultative member of the Bologna Process, it is included in this Part of the Article because of its importance. Like ENQA, the Tuning Project was developed in 2000²²⁷ as a pilot project by a group of European universities after the creation of the Bologna Process.²²⁸ It is now co-coordinated by representatives from the University of Deusto in Bilbao and the

219. See, e.g., EDUC. INT’L & ETUCE, THE TEACHERS’ VOICE IN THE SORBONNE/BOLOGNA DEBATE ON THE FUTURE OF EUROPEAN HIGHER EDUCATION AND RESEARCH, <http://www.ei-ie.org> (search for “EI-ETUCE statement”; then follow “EI/ETUCE Statement” hyperlink) (last visited Nov. 5, 2007).

220. Benelux Bologna, Bologna Participating Organizations, *supra* note 13.

221. Bergen Bologna, Participating Organizations, *supra* note 67.

222. BusinessEurope, History, <http://www.businessseurope.eu/Content/Default.asp?pageid=414> (last visited Nov. 1, 2007).

223. See *id.* (stating organization’s original name was *Conseil des Fédérations Industrielles d’Europe (CIFE)*, which was changed in 1957 to *Union des Industries de la Communauté européenne (UNICE)*).

224. *Id.*

225. BusinessEurope, Mission and Priorities, <http://www.businessseurope.eu/Content/Default.asp?PageID=413> (last visited Oct. 29, 2007).

226. See BFUGB11 Minutes, *supra* note 57 (urging consultative members to provide written reports prior to each BFUG meeting).

227. See Tuning Project, Background, <http://www.tuning.unideusto.org/tuningeu/index.php?option=content&task=view&id=2&Itemid=25> (last visited Nov. 5, 2007) (describing the Tuning Project’s development and goals).

228. See *supra* note 24 for information about ENQA.

University of Groningen in the Netherlands.²²⁹ Although it receives some governmental funding, it is an independent project and is not an official part of the EU, the Council of Europe, or UNESCO.²³⁰

The aim of the Tuning Project is to “[develop] a framework of comparable and compatible qualifications in each of the (potential) signatory countries of the Bologna process, which should be described in terms of workload, level, learning outcomes, competences and profile.”²³¹ The Tuning Project has sponsored a number of conferences and developed a number of documents.²³²

One of the most important results of the Tuning Project is the methodology it used to approach the qualifications framework issue.²³³ It has developed a number of documents regarding workload and the ECTS.²³⁴ It has also addressed the topic of quality enhancement by, among other things, providing both a checklist for curriculum evaluation and examples of good practices.²³⁵

During its first and second phases, which ran between 2000 and 2004, the Tuning Project focused on the educational structures and content of nine particular areas of study.²³⁶ For example, the Tuning

229. See Tuning Project, Project Coordinators, <http://tuning.unideusto.org/tuningeu/index.php?option=content&task=view&id=154&Itemid=181> (last visited Oct. 27, 2007) (listing the project coordinators and their respective affiliations).

230. See Tuning Project, Background, *supra* note 228 (“Currently, the European Commission has approved a two year long third phase, (1 January 2005–1 October 2006), which will focus on consolidation, dissemination and further development.”).

231. Tuning Project, Aims and Objectives, <http://tuning.unideusto.org/tuningeu/index.php?option=content&task=view&id=3&Itemid=26> (last visited Oct. 29, 2007). See also ELFA, ELFA Activities: Projects, http://www.elfa-afde.org/html/activities_projects.htm#QUAACAS (last visited Oct. 29, 2007) (“[T]he Tuning Project focuses on educational structures and the content of programs of study. The project has been running since 2000. In the first phase of the project, a methodology was devised to gain insight into the curricula in a range of disciplines and to make it possible to compare them.”); Julian Lonbay, *Tuning Legal Studies: Can We Find “Commonality”?*, DIRECTIONS (U.K. Centre for Legal Educ., Coventry, U.K.), Autumn 2005, <http://www.ukcle.ac.uk/directions/previous/issue11/lonbay.html> (citing the Bologna Process as one of the reasons why the Tuning Project is needed).

232. See Tuning Project, Events, <http://www.tuning.unideusto.org/tuningeu/index.php?option=content&task=view&id=153&Itemid=180> (last visited Oct. 29, 2007) (listing twelve conferences and meetings put on by the Tuning Project).

233. Tuning Project, Tuning Methodology, <http://www.tuning.unideusto.org/tuningeu/index.php?option=content&task=view&id=172&Itemid=205.pdf> (last visited Oct. 29, 2007).

234. See Tuning Project, Downloads: Workload & ECTS, http://www.tuning.unideusto.org/tuningeu/index.php?option=com_docman&task=view_category&catid=36&Itemid=59&order=dmname&ascdesc=ASC (last visited Oct. 29, 2007) (providing links to various documents regarding workload and ECTS).

235. See Tuning Project, Downloads: Quality Enhancement, http://www.tuning.unideusto.org/tuningeu/index.php?option=com_docman&Itemid=59&task=view_category&catid=40&order=dmdate_published&ascdesc=DESC (last visited Oct. 29, 2007) (providing links to various documents including “TUNING Checklist for Curriculum Evaluation” and “Examples of Good Practices”).

236. Tuning Project, Subject Areas, <http://www.tuning.unideusto.org/tuningeu/index.php?option=content&task=view&id=7&Itemid=30> (last visited Oct. 27, 2007)

Project developed documents that list the “outcomes” that a student should have for each of the nine specified subject matter areas.²³⁷ It also prepared a number of documents that specify the competencies that students should have in these nine areas after receiving a bachelor degree and a master’s degree.²³⁸ Another group of documents address teaching, learning, and assessment for some of the nine subject matter areas.²³⁹ The Tuning Project is now in Phase 3 and has expanded the subject matter areas it covers.²⁴⁰

Although the Tuning Project is not a Bologna Process “participating organization,” it is an important part of the context in which the Bologna Process now operates.

8. Other Organizations

With the exception of the Tuning Project, the entities discussed in this Part are the intergovernmental and nongovernmental organizations listed as “participating organizations” on the current Benelux Secretariat Bologna Process webpage.²⁴¹ When studying the Bologna Process, it is important to be familiar with these organizations and their Bologna Process-related work because they form an important part of the context of the Bologna Process. There are a number of other organizations, however, whose work or

(listing subject matter groups as: (1) Business, (2) Chemistry, (3) Education Sciences, (4) European Studies, (5) Earth Sciences, (6) History, (7) Mathematics, (8) Nursing, and (9) Physics).

237. See, e.g., Tuning Project, General Documents, <http://tuning.unideusto.org/tuningeu/index.php?option=content&task=view&id=155&Itemid=182> (last visited Oct. 29, 2007) (listing links to corresponding “Summary of Outcomes” documents for each subject matter group).

238. See Tuning Project, Downloads: Competences, http://www.tuning.unideusto.org/tuningeu/index.php?option=com_docman&Itemid=59&task=view_category&catid=37&order=dmdate_published&ascdesc=DESC (last visited Nov. 5, 2007) (providing links to documents containing the competencies desired for some subject matter groups).

239. See Tuning Project, Downloads: Teaching, Learning and Assessment, http://www.tuning.unideusto.org/tuningeu/index.php?option=com_docman&Itemid=59&task=view_category&catid=38&order=dmdate_published&ascdesc=DESC (last visited Nov. 5, 2007) (providing links to such documents).

240. See Tuning Project, Subject Areas, *supra* note 236.

In phase 3 (2005 - 2006) Tuning aims to encourage the use of the Tuning methodology and related tools and products (for example the model for determining student workload, the model for designing curricula and the model for organising and applying quality enhancement and assurance) in existing and new thematic Socrates networks as well as in other existing international networks and associations . . .

Id. As a result, its webpage now includes links to a number of new subject matter areas, including law. *Id.*

241. See Bergen Bologna, Participating Organizations, *supra* note 67 (listing Bologna Process participating organizations).

interests are related to the Bologna Process. For example, the “links” pages of the Bergen-Bologna Secretariat and the U.K.-Bologna Secretariat listed a number of additional organizations whose interests overlap the Bologna Process and who may have sponsored Bologna Process-related initiatives, studies, or programs.²⁴² It is beyond the scope of this Article to introduce all of these organizations and initiatives, but one can consult these links for additional information.

D. *European Legal Education and its Stakeholders*

Because one focus of this Article is the impact of the Bologna Process on European legal education, it is useful to explain the legal-services-specific context in which the Bologna Process takes place. Although the Bologna Process applies to more than the EU Member States, this Part begins with an overview of EU developments because of their widespread influence.

1. Introduction—Legal Education and Legal Practice in the EU

Legal education in the EU traditionally has been an undergraduate course of study subject to the same principles discussed above with respect to the EU’s limited competency in the realm of higher education. Thus, on one hand, legal education traditionally has been regulated by EU Member States;²⁴³ on the other hand, EU legal education has been influenced by the “soft law” measures described previously, including the Erasmus program and the ECTS.²⁴⁴

EU legal practice, like EU legal education, also has been largely regulated by individual EU Member States, rather than the EU itself.²⁴⁵ As a result, lawyer qualification requirements within the

242. Bergen Bologna, Consultative Members, *supra* note 49. This site includes links to the websites of the governmental initiatives described in this section and links to new organizations, including the Council of European Professional and Managerial Staff (EUROCADRES), the European Association of International Education (EAIE), and the EU Eurydice project. It also included links to pages that listed European and international students’ associations (eighteen links), European organizations (twenty-two links), National Rectors’ Conferences of the signatory countries (forty links), and other sites of interest (three links). *See also* Bologna Secretariat, Useful Links, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=content.view&CategoryID=5> (last visited Nov. 5, 2007) (providing twenty-two links in addition to the EU Presidency pages, including new organizations such as Edulink and EUCEN, the European University Continuing Education Network).

243. *See* Lonbay, *University Training*, *supra* note 3 (discussing legal education with respect to the U.K., an EU Member State).

244. *Id.* at 3.

245. *See, e.g.*, Wayne J. Carroll, *Liberalization of National Legal Admissions Requirements in the European Union: Lessons and Implications*, 22 PENN ST. INT’L L.

EU vary significantly. For example, historically one could become a lawyer in Spain immediately after finishing a law program, which usually lasted four years, whereas in Germany, one was required to attend law school for at least four years, pass a state examination, complete two years of practical training, and take a second state exam in order to become licensed.²⁴⁶

Although the EU's regulation of domestic legal practice has been limited, the EU has had a pervasive influence on cross-border legal practice situations—situations in which a lawyer from one EU Member State practices in another EU Member State. Four different EU directives or laws, adopted over the course of almost thirty years, address the issue of EU lawyer mobility; three of these directives regulate the rights of lawyers from one EU Member State to practice in another EU Member State, and one of these directives applies to an EU Member's domestic regulation of lawyers.²⁴⁷ As a result of these directives and European case law,²⁴⁸ EU lawyers have more

REV. 563, 564 (2004) (noting that until recently most countries in the EU had their own requirements for admission into their respective legal systems). There are some EU Directives, however, that apply to domestic legal practice in the EU. Council Directive 2006/123, Services in the Internal Market, 2006 O.J. (L 376) 36 (EC) [hereinafter Internal Services Directive]; Council Directive 2001/97, Amending Council Directive 91/308/EEC on Prevention of the Use of the Financial System for the Purpose of Money Laundering, 2001 O.J. (L 344) 76 (EC). For a discussion and critique by the legal profession of an earlier version of Internal Services Directive 376/36, see Hans-Jürgen Hellwig, *Challenges to the Legal Profession in Europe*, 22 PENN ST. INT'L L. REV. 655 (2004).

246. See Carroll, *supra* note 245, at 567–68 (listing the education, examination, and practice requirements for each EU Member State).

247. Council Directive 89/48, General System for the Recognition of Higher-Education Diplomas, 1988 O.J. (L 019) 0016 (EC) [hereinafter Diplomas Directive]; Council Directive 77/249, Facilitate the Effective Exercise by Lawyers of Freedom to Provide Services, 1977 O.J. (L 78) 17 (EC) [hereinafter Lawyers' Services Directive]. As of October 2007, the Diplomas Directive was replaced by another directive. Council Directive 2005/36, Recognition of Professional Qualifications, 2005 O.J. (L 255) 22 (EC) [hereinafter Recognition Directive]. The provisions applicable to lawyers remained essentially the same and are found in Sections Thirteen to Fifteen of the new directive. Council Directive 98/5, Facilitate Practice of the Profession of Lawyer on a Permanent Basis in a Member State Other Than that in Which the Qualification was Obtained, 1998 O.J. (L 77) 36 (EC) [hereinafter Lawyers Establishment Directive]; Internal Services Directive, *supra* note 245.

248. The European Court of Justice has decided over a dozen cases related to the legal profession, the freedom to provide services, and the freedom of establishment. In some instances, these cases predated and provided impetus for the EU Directives; in other instances, these cases interpreted these Directives. A discussion of all of these cases is beyond the scope of this Article. For a couple of examples of such cases, see, e.g., Case C-168/98, Luxembourg v. European Parliament, Nov. 7, 2000 (invalidating aspects of Luxembourg's implementation of Directive 98/5), available at [http://curia.europa.eu/juris/cgi-bin/gettext.pl?lang=en&num=79998892C19980168&doc=T&ouvert=T&seance=ARRET&where=\(\)](http://curia.europa.eu/juris/cgi-bin/gettext.pl?lang=en&num=79998892C19980168&doc=T&ouvert=T&seance=ARRET&where=()); Case 107/83, Ordre des Avocats du Barreau de Paris v. Klopp, 1984 E.C.R. 2971. In *Klopp*, France argued that in order to ensure compliance with the professional rules of conduct, the Paris Bar should be permitted to require that an avocat practice exclusively in Paris and not also practice

mobility within the EU than U.S. lawyers have within the United States.²⁴⁹

The oldest of these EU directives dates from 1977; the Lawyers' Services Directive authorizes EU citizens who are licensed as lawyers in one EU country to offer temporary legal services in another EU country.²⁵⁰ This EU directive is based on mutual recognition principles and requires one EU Member State to recognize a law license from another EU Member State.²⁵¹ To explain this directive in terminology more commonly used in the United States, one might say that a law license from one EU country is given "full faith and credit" in the second EU country.

The second major EU directive that applied to cross-border legal practice was the "Diplomas Directive."²⁵² This 1988 Directive, which was not limited to lawyers, authorized permanent establishment or legal practice in another EU country and did not address temporary practice.²⁵³ The Diplomas Directive set forth the condition under which a lawyer from one EU Member State could acquire the particular title of lawyer (e.g., *avocat*) used in another EU Member

from his Dusseldorf, Germany office. The European Court of Justice found the Paris Bar's concerns legitimate, but found that the existence of a second office didn't prevent the Paris Bar from enforcing its rules. Accordingly, the European Court of Justice ruled that a country could not prohibit a foreign lawyer from operating two offices (a branch office). *Id.* After these decisions, some European countries changed their rules to permit their domestic lawyers, as well as foreign lawyers, to be able to open branch offices.

249. In 2002, the American Bar Association (ABA) completed an initiative to update its recommended rules regarding multijurisdictional practice (MJP). See American Bar Association [ABA], Commission on Multijurisdictional Practice, <http://www.abanet.org/cpr/mjp/home.html> (last visited Nov. 5, 2007). One of the nine MJP-related resolutions adopted by the ABA included changes to Rule of Professional Conduct 5.5 in order to create "safe harbors" for U.S. lawyers who are licensed in one jurisdiction and want to practice in another U.S. jurisdiction. ABA, REPORT 201B: UNAUTHORIZED PRACTICE OF LAW: MULTIJURISDICTIONAL PRACTICE OF LAW 1-12 (2002), available at <http://www.abanet.org/cpr/mjp/201b.doc>. The ABA Policy Implementation Committee maintains a table that shows the implementation status of revised Rule 5.5 in U.S. States. ABA, STATE IMPLEMENTATION OF ABA MODEL RULE 5.5: MULTIJURISDICTIONAL PRACTICE OF LAW 1-4 (2007), available at http://www.abanet.org/cpr/jclr/5_5_quick_guide.pdf. These ABA MJP recommendations provide less mobility for U.S. lawyers than do the EU directives described *supra* notes 245 and 247.

250. Lawyers' Services Directive, *supra* note 247, art. 2. For a more detailed discussion of this directive, see Roger J. Goebel, *Lawyers in the European Community: Progress Towards Community-Wide Rights of Practice*, 15 *FORDHAM INT'L L.J.* 556, 576-85 (1992); see also Council of Bars & Law Societies of Europe [CCBE], Free Movement of Lawyers Committee, http://www.ccbe.eu/index.php?id=94&id_comite=8&L=0 (last visited Nov. 5, 2007) (providing links to the Directive in several languages).

251. Lawyers' Services Directive, *supra* note 247, at 17 ("[I]f lawyers are to exercise effectively the freedom to provide services host Member States must recognize as lawyers those persons practicing the profession in the various Member States . . .").

252. Diplomas Directive, *supra* note 247.

253. *Id.*

State.²⁵⁴ For example, this Directive stated the conditions under which a German *Rechtsanwalt* was entitled to move to France and assume the French title of *avocat*. Under the Diplomas Directive, the EU Member State in which the lawyer wanted to practice could require that the lawyer either take an aptitude test or complete an adaptation period of not more than three years.²⁵⁵ In 2005, the Diplomas Directive was replaced by the Recognition Directive, but the provisions applicable to lawyers remained essentially the same.²⁵⁶

The next EU directive applicable to cross-border legal practice was adopted in 1998 and is known as the Lawyers' Establishment Directive or Directive 98/5.²⁵⁷ Like the Diplomas Directive, the Lawyers' Establishment Directive addresses the situation in which a lawyer from one EU Member State wants to practice law on a permanent basis in another EU Member State.²⁵⁸ Under this Directive, a lawyer may do so with very few formalities.²⁵⁹ This directive does not require either a test or an adaptation period before the lawyer can practice.²⁶⁰ In other words, like the Services Directive, which granted EU lawyers the right to practice temporarily in another EU Member State on the basis of mutual recognition, this

254. *Id.*

255. For the legal profession, it is the Host State, not the individual, who has the right to determine whether to require an adaptation period or aptitude test. *Id.* art. 4(1). All EU jurisdictions except Denmark have opted to require an aptitude test rather than an adaptation period. See E-mail from Dr. Julian Lonbay, Professor, University of Birmingham, to author (Dec. 3, 2005) (on file with author) (stating that Denmark is the only one of the twenty-five EU Member States using the adaptation period).

256. See Recognition Directive, *supra* note 247, arts. 13–15, 62 (“Directive[] . . . 89/48/EEC . . . [is] repealed with effect from 20 October 2007. References to the repealed Directives shall be understood as references to this Directive and the acts adopted on the basis of those Directives shall not be affected by the repeal.”).

257. Lawyers Establishment Directive, *supra* note 247, ¶ 10. This Directive was updated in May 2004 to reflect the accession of new EU Member States. Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to Facilitate Practice of the Profession of Lawyer on a Permanent Basis in a Member State Other Than that in Which the Qualification was Obtained (consolidated version, May 2004), 1998L0005 (May 1, 2004), available at <http://eur-lex.europa.eu/LexUriServ/site/en/consleg/1998/L/01998L0005-20040501-en.pdf>. See also CCBE, *Table on the Implementation Directive 98/5/EC of the 16th February 1998* (Sept. 2005), http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/tableau_transpositio1_11812_85180.htm (listing all EU Member States and their dates of adoption and implementation of the directive). For additional information on this Directive, see Roger J. Goebel, *The Liberalization of Interstate Legal Practice in the European Union: Lessons for the United States?*, 34 INT'L L. 307 (2000); Interview with “Crossing the Bar.Com” (May & Dec. 2001), reprinted in STEPHEN GILLERS & ROY SIMON, REGULATION OF LAWYERS: STATUTES AND STANDARDS 314–17 (2004), available at <http://www.personal.psu.edu/faculty/l/s/lst3/Electronic%20Interview%20of%20Professor%20Laurel%20Terry.doc>.

258. Lawyers Establishment Directive, *supra* note 247, art. 2.

259. *Id.* art. 10(1).

260. *Id.*

EU Directive grants EU lawyers the right to permanently practice in another EU Member State on the basis of mutual recognition. Another very significant aspect of the Lawyers' Establishment Directive is that after three years of practicing local law in another EU Member State, an EU lawyer using this directive may join the Host State profession and use the title of lawyer that is used in that EU country.²⁶¹ Consequently, this Directive would allow a German-trained lawyer to practice law in France, and if the German lawyer practiced French or EU law for three years, the German lawyer thereafter could register and use the French title of *avocat*, even though he or she did not attend law school in France, take a French bar exam, or take an aptitude test.

Despite the very liberal 1998 EU Lawyers' Establishment Directive, the content of the 1988 Diplomas Directive (now contained in the Recognition Directive) remains relevant to European lawyers. The reason is that the Lawyers' Establishment Directive incorporates by reference some of the provisions of the Diplomas Directive.²⁶² Lawyers who want to acquire the "Host State" lawyer's title (e.g. *avocat*), but do not meet the three year requirement for this under the Establishment Directive, can still acquire this title by using the methods specified in the Diplomas Directive.²⁶³ Thus, in all Member States except Denmark, the lawyer could acquire the local title through an aptitude test.²⁶⁴

The most recent major directive is the December 2006 Internal Services Directive.²⁶⁵ The Internal Services Directive is a horizontal directive that applies to most service providers, including lawyers.²⁶⁶ The purpose of this directive is "to achieve a genuine Internal Market in services by removing legal and administrative barriers to the development of service activities between Member States."²⁶⁷ The scope of the directive is quite broad and includes provisions that, *inter alia*, require a single point of contact, mandate use of electronic procedures, prohibit a number of activities, require that attorneys

261. *Id.* arts. 3 ("Registration with the Competent Authority"), 4 ("Practice Under the Home-Country Professional Title"), 10 ("Like Treatment as a Lawyer of the Host Member State").

262. *Id.*

263. *Id.* art. 10(3).

264. *See supra* note 255.

265. *See* Internal Services Directive, *supra* note 245 (explaining that there are additional directives that apply to EU lawyers, including the E-Commerce directive, but that these four—(1) Services, (2) Diplomas (Recognition), (3) Lawyers Establishment, and (4) Internal Services—are considered the major directives applicable to lawyers); *see also* CCBE, Free Movement of Lawyers Committee, *supra* note 250 (providing a link to the Directive).

266. Internal Services Directive, *supra* note 245, arts. 1–2.

267. European Commission, Directive on Services in the Internal Market, http://ec.europa.eu/internal_market/services/services-dir/index_en.htm (last visited Nov. 5, 2007).

provide certain information (such as price), prohibit absolute advertising bans, and authorize ongoing supervision.²⁶⁸ Its scope and effect on the EU legal profession is not yet known, which may be one reason why the CCBE pressed (unsuccessfully) for the exemption of lawyers from this directive.²⁶⁹ The CCBE Working Group on Services is drafting recommendations on the Services Directive for EU bars and law societies.²⁷⁰ EU Member States have until December 2009 to implement this directive into their national legislation.²⁷¹

Although the first three EU directives and the European Court of Justice mobility cases are limited to those EU lawyers who cross borders,²⁷² EU law has had a strong influence on the EU Member States' domestic regulation of their own lawyers. It is perhaps not surprising that if an EU country is required to change its practices for lawyers from other EU countries, it would want to change its rules so that its own lawyers are not disadvantaged when compared to lawyers from other EU Member States. For example, after the European Court of Justice ruled that a German lawyer could open a second office in France, many EU countries, including France, changed their rules so that their own domestic lawyers could also open a second law office.²⁷³ Furthermore, the EU's willingness to intervene in the domestic regulation of EU lawyers suggests that, even if the CCBE protests,²⁷⁴ there will be increased regulation and harmonization in the future.

268. Internal Services Directive, *supra* note 245, arts. 6, 8, 14, 22(3), 24, 27, 30–31.

269. See CCBE, CCBE-INFO No. 16, at 4 (Sept. 2006), *available at* http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/n_16_enpdf1_1180964198.pdf (discussing the CCBE's continued push for the exclusion of lawyers from the scope of the Services Directive).

270. CCBE, CCBE-INFO No. 17, at 7 (Jan. 2007), *available at* http://www.ccbe.eu/doc/Archives/n_17_en.pdf.

271. Internal Services Directive, *supra* note 245, art. 44.

272. In comparison to number of lawyers within the EU, relatively few lawyers have taken advantage of the EU Establishment Directive. See CCBE, NUMBER OF LAWYERS IN CCBE MEMBER BARS (2006), http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/table_number_lawyers1_1179905628.pdf. However, it is quite likely that a much larger number of EU lawyers have taken advantage of the Lawyer Services Directive and offered temporary services in another EU Member State. There currently is no way to measure this type of EU cross-border practice. For information on how legal services are "counted" for trade and statistics purposes, see U.N. Dept. Econ. & Soc. Affairs, Technical Sub-Group, Expert Group on Int'l Econ. & Soc. Classifications, *Materials Submitted to the Technical subgroup (TSG) of the Expert Group on International Economic and Social Classifications*, § 1(A)(a), U.N. Doc. TSG/27 (Oct. 18, 2004) (prepared by Laurel S. Terry), *available at* <http://unstats.un.org/unsd/class/intercop/techsubgroup/04-10/papers/27-iba%20documents.pdf>.

273. *Ordre des Avocats au Barreau de Paris v. Onno Klopp*, Case 107/83, 1984 ECR 2971, 1 C.M.L.R. 99 (1985), 1984 ECJ CELEX LEXIS 1579.

274. Compare Press Release, CCBE, The CCBE Considers that Lawyers and Legal Services Should Not Be Included in the Draft Services Directive (July 7, 2005), http://www.ccbe.eu/doc/Archives/pr_0505_en.pdf (arguing against inclusion), with LAW

In sum, four directives have directly affected the movement of lawyers in the EU and have had a significant influence on the domestic regulation of lawyers in the EU. Thus, in the same way that EU initiatives and law have provided a significant overlay for legal education within the EU, EU initiatives and law have significantly influenced both domestic and cross-border legal practice. While it remains true that the regulation of legal practice in Europe is primarily a matter for individual EU states, it is also an area in which the EU had significant influence.

2. European Law Faculties Association (ELFA) and its QUAACAS Committee

Because this Article addresses the effect of the Bologna Process on European legal education, it is useful to know who the major stakeholders are with respect to European legal education.

One of the most important legal education stakeholders is the European Law Faculties Association or ELFA.²⁷⁵ ELFA is the counterpart to the Association of American Law Schools (AALS); it was founded in 1995 in Leuven by more than eighty faculties of law located in different universities across Europe.²⁷⁶ ELFA admits full members, associate members, and observers.²⁷⁷ Status in ELFA depends, among other things, on the country in which the university is located.²⁷⁸ At the time this Article was written, the Association included more than one hundred and sixty members from countries that were both within and outside of the EU and the Council of Europe; not all of its members participate in the Bologna Process.²⁷⁹

ELFA participates in various activities related to the Bologna Process. For example, it monitors developments and shares

SOCIETIES, SERVICES DIRECTIVE: THE FATE OF LAWYERS REMAINS UNCERTAIN, BRUSSELS AGENDA (Mar. 2006), *available at* http://www.adwokatura.pl/zagraniczne/pliki/Brussels_Agenda_March_2006.pdf (arguing for inclusion).

275. See ELFA, About ELFA, http://www.elfa-afde.org/html/about_what.html (last visited Nov. 5, 2007) (describing the organization).

276. *Id.*

277. ELFA, *Articles of Incorporation*, art. 7 (2006), http://www.elfa-afde.org/PDF/Articles/statutes_2006_EN.pdf.

278. *Id.* arts. 8–10. Full members must come from institutions in the EU, ELFA, or the European Free Trade Association, or, subject to the condition of approval by a three-fourths majority, one of the Contracting States of Europe Agreements. *Id.* art. 8. Associate membership is given to those members of the Council of Europe that are outside of the EU or the European Free Trade Association. *Id.* art. 9. Observer status does not have geographic limitations. *Id.* art. 10.

279. ELFA, About ELFA, *supra* note 275. For example, one university from Israel is a member of ELFA, but Israel is not a Bologna Process participant. *Id.* (follow “Members” hyperlink). See also *infra* app. 1 (including additional information regarding overlapping memberships and countries with institutions that are ELFA members).

information with its members.²⁸⁰ It has communicated with EU officials²⁸¹ and has adopted a policy statement about the Bologna Process.²⁸² One of the most important ELFA entities to deal with Bologna Process issues is the ELFA QUAACAS Committee.²⁸³

QUAACAS is the acronym for the ELFA Quality Assurance, Accreditation, and Assessment Committee (sometimes called a group).²⁸⁴ QUAACAS has organized several conferences and has posted the conference materials on its website.²⁸⁵ In addition to the conferences it has organized, QUAACAS has prepared newsletters and plans to participate in the Tuning Project.²⁸⁶ QUAACAS also has agreed to support the development of the Tuning Project.²⁸⁷ The QUAACAS Committee anticipates that there will be a working group for each country in Europe, headed by a coordinator who will be responsible for bringing together interested legal academics to work on the Tuning Project in relation to their national legal system.²⁸⁸ All

280 See, e.g., ELFA, Legal Education in Europe, <http://www.elfa-afde.org/html/legal.html> (last visited Nov. 5, 2007) (offering links to various information for its members).

281 See, e.g., Letter from ELFA to European Ministers for Educ. & Mrs. Reding, EU Comm'r of Educ., http://www.elfa-afde.org/PDF/Sorbonne%20Bologna/Letter_Reding_English.pdf (last visited Nov. 5, 2007) (regarding Bologna Declaration Follow-Up Conference of the European Ministers for Education in Prague in May 2001).

282 ELFA, *For a European Space of Legal Education* (May 31, 2002), <http://www.elfa-afde.org/PDF/Sorbonne%20Bologna/position%20paper%20May%202002%20English.pdf> (concerning Bologna-Declaration of 1999). See also *infra* notes 734, 745 for a discussion of this report.

283 See, e.g., Quality Assurance, Accreditation and European Legal Education, QUAACAS Committee, http://elixir.bham.ac.uk/quaacas/Quaacas_Committee.htm (last visited Nov. 5, 2007) (describing ELFA QUAACAS Committee).

284 See, e.g., Quality Assurance, Accreditation and European Legal Education, What's New?, <http://elixir.bham.ac.uk/quaacas/index.htm>. The QUAACAS Committee is chaired by Dr. Julian Lonbay from the United Kingdom and includes as members Tom Latrup-Pedersen, Dean, Faculty of Social Sciences, University of Aarhus, Denmark; Anne Péliissier-Klébès, professor, Université Robert Schuman de Strasbourg; Michiel van de Kasteelen, head of the international office, Utrecht University; and Jacek Petzel, vice-dean, Faculty of Law, University of Warsaw. QUAACAS Committee, *supra* note 283.

285 See QUAACAS, What's New?, *supra* note 284 (including conferences in Utrecht in November 2004, Graz in February 2005, and Leuven in February 2006).

286 See *Tuning Legal Studies in Europe*, TUNING NEWSL. NO. 2 (QUAACAS), Sept. 24, 2005, available at http://elixir.bham.ac.uk/quaacas/NEWSLETTER_2_----_September_2005.pdf (reporting that QUAACAS planned to seek funding from European Commission to establish a "law" thematic network). The three themes included in the QUAACAS network were: (1) quality assurance and benchmarks and learning outcomes in legal studies in Europe; (2) accreditation of legal studies in Europe; and (3) teaching methodology and assessment in legal studies in Europe. *Id.*; see also E-mail from Dr. Julian Lonbay, Chair, ELFA QUAACAS Comm., to author (June 20, 2006) (on file with author) (stating funding application was unsuccessful but Committee plans to submit another application in November 2006).

287 ELFA, ELFA Activities: Projects, *supra* note 231; Lonbay, *Tuning Legal Studies*, *supra* note 231.

288 ELFA, ELFA Activities: Projects, *supra* note 231.

the coordinators will meet periodically so as to combine all the information that is gathered into a cohesive whole, which will eventually result in the publication of a report.²⁸⁹

Although it has indicated its areas of concern, ELFA is generally supportive of the Bologna Process²⁹⁰ and is an important stakeholder whose views must be consulted.

3. CCBE

Another important stakeholder related to legal education is the CCBE. The CCBE is the officially recognized representative organization for the legal profession in the European Union, representing over 700,000 lawyers.²⁹¹ Its members are nominated by regulatory bodies of the Bar and Law Societies in the twenty-seven EU Member States, Switzerland, and the three member countries of the European Economic Area; it also has representatives from several Observer States.²⁹² The CCBE Training Committee is responsible for issues related to the Bologna Process and the Morgenbesser case.²⁹³ This Committee is chaired by Dr. Julian Lonbay, who also chairs the ELFA QUAACAS Committee that deals with similar issues.²⁹⁴ Among other things, the CCBE Training Committee circulated a questionnaire to CCBE members, collated the results, and posted a lengthy report on this website.²⁹⁵ They also sponsored a September

289. *Id.*

290. *See* ELFA, FOR A EUROPEAN SPACE OF LEGAL EDUCATION, *supra* note 282.

ELFA is very much in favour of the spirit underlying the Bologna Declaration, namely a general concern about the quality, transparency and mobility in European (legal) education, an increase in competitiveness of European institutions of higher education in a globalising world, the achievement of greater compatibility and comparability of systems of higher education, a reduction of student drop-up [sic] rates in law faculties, and an orientation of university degrees also towards needs of the changing labour market, whilst always maintaining high standards in academic education.

Id.

291. CCBE, Introduction, <http://www.ccbe.eu/index.php?id=12> (last visited Nov. 5, 2007).

292. CCBE, Structure, <http://www.ccbe.eu/index.php?id=11> (last visited Nov. 5, 2007).

293. CCBE, COMPARATIVE TABLE ON TRAINING OF LAWYERS IN EUROPE 1 n.3 (2004), available at http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/comparative_table_en1_1183977451.pdf. For the Morgenbesser case, see *supra* note 116.

294. *See* CCBE, COMPARATIVE TABLE ON TRAINING OF LAWYERS IN EUROPE, *supra* note 293 (listing membership); *Tuning Legal Studies in Europe*, *supra* note 286 (listing membership). Compare CCBE, COMPARATIVE TABLE ON TRAINING OF LAWYERS IN EUROPE, *supra* note 293 (stating CCBE Committee objectives), with *Tuning Legal Studies in Europe*, *supra* note 286 (stating QUAACAS Committee objectives).

295. CCBE, COMPARATIVE TABLE ON TRAINING OF LAWYERS IN EUROPE, *supra* note 293.

2007 conference that addressed many of the issues raised by the Bologna Process.²⁹⁶

4. ELSA and Other Organizations

The European Law Students Association (ELSA) is another important legal-education related Bologna Process stakeholder.²⁹⁷ ELSA identifies itself as the world's largest independent law students' association; its membership includes almost thirty thousand students and recent graduates who are organized in local groups at more than 200 universities throughout thirty-six countries in Europe.²⁹⁸ Although ELSA does not appear to have taken an active role in the Bologna Process,²⁹⁹ its position as the largest organization of law students in Europe makes it an important Bologna Process stakeholder. There are other European law-related organizations, but they have not yet been active in the Bologna Process.³⁰⁰

With this contextual background, one can now examine the Bologna Process history, context, and development in more detail.

III. THE HISTORY AND COMPONENTS OF THE BOLOGNA PROCESS

As noted earlier, the Bologna Process is a massive undertaking that intends to reshape higher education in Europe and create the European Higher Education Area (EHEA) by the year 2010.³⁰¹ The Bologna Process has ten action lines that have been confirmed in the agreements that have emerged from six meetings held over almost ten years.³⁰² The Bologna Process agreements have relied heavily on the work that has been done between these meetings by the BFUG, its Board, and its consultative members, among others.

296. See CCBE, *Improving Legal Education & Training in a Converging Europe*, Warsaw, Sept. 25–27, 2007, <http://www.ccbe.eu/index.php?id=163&L=0> (listing the details of the conference).

297. See European Law Students' Association [ELSA], *Welcome to ELSA*, <http://www.elsa.org/> (last visited Nov. 5, 2007) (providing information and hyperlinks about the organization).

298. *Id.*

299. See ELSA, *supra* note 297 (performing an electronic search for “Bologna” revealed no substantive discussion of the Bologna Process issues).

300. See CCBE, *Links*, <http://www.ccbe.eu/index.php?id=7&L=0> (last visited Nov. 5, 2007) (providing the easiest way to identify these organizations).

301. See, e.g., Berlin Communiqué, *supra* note 8, at 1 (“In the first follow-up conference held in Prague on 19 May 2001, they increased the number of the objectives and reaffirmed their commitment to establish the European Higher Education Area by 2010.”).

302. See Bologna Process Action Lines, *supra* note 30 (listing the ten action lines).

Unless one has personally consulted the Bologna Process websites, it is difficult to imagine the volume of material available. There clearly are tens of thousands of pages available, and it certainly is not inconceivable that there hundreds of thousands—perhaps millions—of pieces of paper available.³⁰³ The amount of study and attention given to the Bologna Process initiatives is truly impressive. For this reason, it would be impossible for this Article to fully summarize all Bologna Process developments. Although that level of depth is impossible, the goal of this Article is to provide breadth with respect to Bologna Process developments. This Part is designed to provide enough history, background, and context so that the uninitiated can understand both Bologna Process-related documents and the multiple places and ways to explore a particular Bologna Process topic in greater depth. This Part is organized according to the six Bologna Process Ministerial-level meetings.

A. *The 1998 Sorbonne Declaration*

In 1998, two years before the EU's Lisbon Council and on the occasion of the 800th anniversary of the Sorbonne University, the education ministers from France, Germany, Italy, and the United Kingdom met in Paris.³⁰⁴ During that meeting, they signed the three-page Sorbonne Declaration in which they agreed to commit themselves “to encouraging a common frame of reference, aimed at improving external recognition and facilitating student mobility as well as employability.”³⁰⁵ They also called upon other European countries to join them in their objective and all European universities to “consolidate Europe’s standing in the world through continuously improved and updated education for its citizens.”³⁰⁶ It noted that Europe is “not only that of the Euro, of the banks and the economy: it must be a Europe of knowledge as well.”³⁰⁷

The Sorbonne Declaration’s narrative referred to several developments, which, if continued, would help achieve the stated objectives.³⁰⁸ These developments included: (1) developing a two-cycle system, with undergraduate and graduate degrees; (2) using a standardized credit system, such as the ECTS scheme,³⁰⁹ and semesters; (3) having a diversity of programs, including opportunities for multidisciplinary studies, development of a proficiency in

303. See, e.g., Bergen Bologna Website, *supra* note 43 (providing links to many documents).

304. Sorbonne Declaration, *supra* note 12.

305. *Id.* at 3.

306. *Id.*

307. *Id.* at 1.

308. *Id.* at 1–3.

309. See *supra* text accompanying notes 76–77 for a discussion of ECTS.

languages, and the ability to use new information technologies; and (4) encouraging students to spend at least one semester in universities outside their own country and encouraging teaching and research staff to work in European countries other than their own.³¹⁰

The Sorbonne Declaration also summarized the progress that had been made to date on the mutual recognition of higher education degrees for professional purposes and cited as an example the Lisbon Convention that UNESCO and the Council of Europe adopted.³¹¹ The Sorbonne Declaration concluded by calling upon both EU Member States and other European Countries to join the Sorbonne Declaration signers in their education initiative.³¹²

In contrast to the later Bologna Process documents, the Sorbonne Declaration is rather general and vague. But it is an important document because it initiated the Bologna Process.

B. *The 1999 Bologna Declaration and Aftermath*

1. The Bologna Declaration

The second key document in the development of the Bologna Process is the Bologna Declaration.³¹³ In 1999, one year after the Sorbonne meeting, ministers from twenty-nine countries, in contrast to the four initial countries in Sorbonne, met and signed the Bologna Declaration.³¹⁴ It is interesting to note that this document was

310. Sorbonne Declaration, *supra* note 12.

311. *Id.* at 2–3.

A convention, recognising higher education qualifications in the academic field within Europe, was agreed on last year in Lisbon. The convention set a number of basic requirements and acknowledged that individual countries could engage in an even more constructive scheme. Standing by these conclusions, one can build on them and go further. There is already much common ground for the mutual recognition of higher education degrees for professional purposes through the respective directives of the European Union.

Id. See *supra* note 156 for a discussion of the Lisbon Convention.

312. See Sorbonne Declaration, *supra* note 12, at 3 (“We call on other Member States of the Union and other European countries to join us in this objective and on all European Universities to consolidate Europe’s standing in the world through continuously improved and updated education for its citizens.”); see also Lisbon Strategy, *supra* note 89 (describing the Lisbon Strategy adopted by the European Council in 2000).

313. Bologna Declaration, *supra* note 2.

314. *Id.* The twenty-nine countries that signed the 1999 Bologna Declaration were: (1) Austria, (2) Belgium, (3) Bulgaria, (4) Czech Republic, (5) Denmark, (6) Estonia, (7) Finland, (8) France, (9) Germany, (10) Greece, (11) Hungary, (12) Ireland, (13) Iceland, (14) Italy, (15) Latvia, (16) Lithuania, (17) Luxembourg, (18) Malta, (19) the Netherlands, (20) Norway, (21) Poland, (22) Portugal, (23) Romania, (24) Slovak Republic, (25) Slovenia, (26) Spain, (27) Sweden, (28) Switzerland, and (29) the United Kingdom. See *infra* app. 1 (listing information about Bologna Process participants).

signed one year before the EU adopted its Lisbon Strategy.³¹⁵ Almost half of the Bologna Declaration's twenty-nine signatories (fourteen, to be exact) were not EU Member States.³¹⁶

The six-page Bologna Declaration was more specific and focused than the Sorbonne Declaration. In addition to reaffirming its support for the general principles in the Sorbonne Declaration, the Bologna Declaration identified six objectives that the participants wanted to achieve by 2010 in order "to establish the European area of higher education and to promote the European system of higher education world-wide."³¹⁷ The six objectives set forth in the Bologna Declaration were:

[1.] Adoption of a system of easily readable and comparable degrees, also through the implementation of the Diploma Supplement, in order to promote European citizens employability and the international competitiveness of the European higher education system[.]

[2.] Adoption of a system essentially based on two main cycles, undergraduate and graduate. Access to the second cycle shall require successful completion of first cycle studies, lasting a minimum of three years. The degree awarded after the first cycle shall also be relevant to the European labour market as an appropriate level of qualification. The second cycle should lead to the master and/or doctorate degree as in many European countries.

[3.] Establishment of a system of credits—such as in the ECTS system—as a proper means of promoting the most widespread student mobility. Credits could also be acquired in non-higher education contexts, including lifelong learning, provided they are recognised by receiving Universities concerned.

[4.] Promotion of mobility by overcoming obstacles to the effective exercise of free movement with particular attention to:

- for students, access to study and training opportunities and to related services
- for teachers, researchers and administrative staff, recognition and valorisation of periods spent in a European context researching, teaching and training, without prejudicing their statutory rights.

[5.] Promotion of European co-operation in quality assurance with a view to developing comparable criteria and methodologies.

315. See *supra* text accompanying note 89 (discussing the Lisbon Strategy).

316. Bologna Declaration, *supra* note 2. The fourteen non-EU Member States who signed the Bologna Declaration were: Bulgaria, the Czech Republic, Estonia, Hungary, Iceland, Latvia, Lithuania, Malta, Norway, Poland, Romania, the Slovak Republic, Slovenia, and Switzerland. *Id.* All of these countries are members of the Council of Europe. See *infra* app. 1 for more information about the Bologna Process participants. For more information on the Council of Europe, see *supra* notes 146-149 and accompanying text.

317. Bologna Declaration, *supra* note 2, at 3. The earlier Sorbonne Declaration first referred to the European area of higher education. Sorbonne Declaration, *supra* note 12.

[6.] Promotion of the necessary European dimensions in higher education, particularly with regards to curricular development, inter-institutional co-operation, mobility schemes and integrated programmes of study, training and research.³¹⁸

Some of the objectives listed in the 1999 Bologna Declaration referred to ongoing higher education initiatives by the EU, the Council of Europe, and UNESCO. For example, the Bologna Declaration cited the EU's ECTS system as an example of a credit system that could be adopted.³¹⁹ The Bologna Declaration also called on participants to use the Diploma Supplement, which had been incorporated by reference into the 1997 Lisbon Convention.³²⁰

2. Post-Bologna Follow-up Work

A flurry of activity followed the signing of the 1999 Bologna Declaration.³²¹ This activity is documented in the 2001 Lourtie Report that was commissioned by the BFUG.³²² The thirty-seven page Lourtie report provides details about the follow-up activities that occurred after the 1999 Bologna meeting.³²³ The appendices included the reports and conclusions from five conferences that had addressed the Bologna Process.³²⁴ Because the Bologna Process did not have a webpage at the time, the Lourtie Report is useful documentation of the official Bologna Process work that was undertaken between the 1999 Bologna Ministerial Meeting and the 2001 Prague meeting.

In addition to the official activity it documented, the Lourtie Report showed a number of stakeholder-sponsored activities. Both the EUA and the ESIB sponsored conferences to discuss the Bologna Process and European higher education.³²⁵ In 2001, EUA issued its Trends II report on the Bologna Process.³²⁶ ESIB also issued a

318. Bologna Declaration, *supra* note 2, at 3–4.

319. *Id.*

320. Lisbon Convention, *supra* note 156, § IX(3).

321. PEDRO LOURTIE, GEN. RAPPORTEUR, FOLLOW-UP GROUP OF THE BOLOGNA PROCESS, FURTHERING THE BOLOGNA PROCESS: REPORT TO THE MINISTERS OF EDUCATION OF THE SIGNATORY COUNTRIES, at i (2001), *available at* http://www.bologna-bergen2005.no/Docs/00-Main_doc/0105Lourtie_report.pdf [hereinafter 2001 LOURTIE REPORT].

322. *Id.*

323. *Id.* The 2001 Lourtie Report also discussed the goals of the Bologna Process and set forth scenarios for the future. *Id.*

324. *Id.* at 21–33.

325. Prague Communiqué, *supra* note 15, at 1.

326. GUY HAUG & CHRISTIAN TAUCH, TRENDS IN LEARNING STRUCTURES IN HIGHER EDUCATION (II) (2001), *available at* http://www.eua.be/fileadmin/user_upload/files/EUA1_documents/OFFDOC_BP_trend_II.1068715483262.pdf.

report on the Bologna Process in 2001.³²⁷ The European Commission was named a member of the follow-up group and was actively involved in promoting the Bologna Declaration objectives.³²⁸ Among other things, the Commission prepared the “ECTS Extension Feasibility Project Report” in February of 2000 as well as a survey on lifelong learning.³²⁹ In sum, the Lourtie Report confirms that there were significant activities following the 1999 adoption of the Bologna Declaration.

C. *The 2001 Prague Communiqué and Aftermath*

1. The Prague Communiqué

In May 2001, two years after the 1999 signing of the Bologna Declaration, ministers from thirty-two European countries met in Prague “in order to review the progress achieved and to set directions and priorities for the coming years of the [Bologna] process.”³³⁰ As a result of this meeting, they issued the three-page Prague Communiqué in which they “reaffirmed their commitment to the objective of establishing the European Higher Education Area by 2010.”³³¹ In addition to this general reaffirmation, the Prague Communiqué elaborated upon the six objectives that had been set forth in the Bologna Declaration.³³² For each of these six objectives, the Prague Communiqué set forth a series of specific tasks that should be undertaken to help achieve that objective.³³³ For example, with respect to the objective regarding recognition of degrees, the Prague Communiqué stated:

Ministers strongly encouraged universities and other higher education institutions to take full advantage of existing national legislation and European tools aimed at facilitating academic and professional recognition of course units, degrees and other awards, so that citizens can effectively use their qualifications, competencies and skills throughout the European Higher Education Area. Ministers called upon existing organisations and networks such as NARIC and ENIC to

327. NATIONAL UNIONS OF STUDENTS IN EUROPE, STUDENT GÖTEBORG DECLARATION (2001), available at http://www.bologna-berlin2003.de/pdf/Student_documents_ESIB.pdf.

328. See, e.g., 2001 LOURTIE REPORT, *supra* note 321, at 2 (naming the European Commission as a participant in this group).

329. *Id.* at 5, 13.

330. Prague Communiqué, *supra* note 15, at 1. During the Prague meeting, the existing twenty-nine Bologna Process participants accepted applications from Croatia, Cyprus, and Turkey, bringing the total Bologna Process participants to thirty-two. *Id.* at 1, 3. See *supra* note 314 for the prior participants.

331. Prague Communiqué, *supra* note 15, at 1.

332. *Id.* at 1–2.

333. *Id.*

promote, at institutional, national and European level, simple, efficient and fair recognition reflecting the underlying diversity of qualifications.³³⁴

In addition to providing concrete suggestions about how to achieve the previously-identified six objectives, the Prague Communiqué identified three new objectives for the Bologna Process participants.³³⁵ These new objectives included: (a) life-long learning, (b) involving universities and students as active partners in the Bologna Process, and (c) promoting the attractiveness of the EHEA.³³⁶

The Prague Communiqué included information about membership in the Bologna Process and its criteria. It announced that the Bologna Process Ministers had accepted Cyprus, Croatia, and Turkey as participants and explained that applications would be accepted from countries that were eligible to participate in the EU's Socrates, Leonardo da Vinci, or Tempus-Cards programs.³³⁷

The Prague Communiqué identified a number of steps that should be taken by way of follow-up, including a Ministerial Meeting to be held in 2003 in Berlin.³³⁸ It also instituted structural changes to the Bologna Process by establishing both a preparatory group and a follow-up group.³³⁹

The Prague Communiqué identified the EUA, EURASHE, ESIB, and the Council of Europe as stakeholder groups that should be regularly consulted.³⁴⁰ It also identified several issues on which such consultation should be sought.³⁴¹ The Prague Communiqué directed the BFUG to arrange seminars on the topics of (1) accreditation and quality assurance, (2) recognition issues and the use of credits in the Bologna process, (3) the development of joint degrees, (4) the obstacles to mobility and other social dimensions, and (5) lifelong learning and student involvement.³⁴²

2. Post-Prague Follow-up Work

After the 2001 Prague meeting, the BFUG was extremely active. Much of this activity is documented in the 2003 Zgaga Report, which the BFUG commissioned, just as it had done with the 2001 Lourtie

334. *Id.* at 1.

335. *Id.* at 1–3.

336. *Id.* at 2–3.

337. *Id.* at 3.

338. *Id.*

339. *Id.* See also *supra* Part I.C (discussing Bologna administration).

340. Prague Communiqué, *supra* note 15, at 3.

341. *Id.*

342. *Id.*

Report.³⁴³ However, in addition to the Zgaga Report, the post-Prague work is documented on the Bologna Process website created by the German government.³⁴⁴ Although the position of the Bologna Process Secretariat had not yet been created, from the perspective of current researchers, the German government served as the equivalent of a Secretariat, and its 2001-2003 Berlin Bologna website was similar to the later Secretariat websites.³⁴⁵

The Zgaga Report and the Berlin Bologna website identify a number of official Bologna Process events, as well as events sponsored by the consultative members. The official activities included the national reports prepared by the Bologna Process participants to demonstrate their Bologna implementation.³⁴⁶ Six official seminars addressed a wide range of issues.³⁴⁷ These seminars generated a number of papers and recommendations.³⁴⁸

The Zgaga Report and the Berlin Bologna website also document extensive seminars by the Bologna Process consultative members that supplemented the official Bologna seminars.³⁴⁹ The EU was extremely active during this period, as is evident from an examination of the Berlin Bologna website, which lists the EU's

343. PAVEL ZGAGA, BOLOGNA PROCESS BETWEEN PRAGUE AND BERLIN (2003), available at http://www.bologna-bergen2005.no/Docs/00-Main_doc/0309ZGAGA.PDF [hereinafter 2003 ZGAGA REPORT]; see also Berlin Communiqué, *supra* note 17, at 1 (explaining origins of the Zgaga Report).

344. In anticipation of the 2003 meeting in Berlin, the German Ministry of Education and Research, the German Academic Exchange Service (DAAD), and the Higher Education Rectors' Conference (HRK) jointly created a webpage on which they posted numerous resources and documents related to the Bologna Process. Berlin Bologna, <http://www.bologna-berlin2003.de/index.htm> (last visited Nov. 5, 2007) [hereinafter Berlin Bologna]; see also Bergen Bologna Secretariat, Bergen Bologna, About the Web Site, <http://www.bologna-bergen2005.no/EN/About/Web1.htm> (last visited Nov. 5, 2007) (explaining that the Bergen webpage was based on the Berlin webpage and explaining who was responsible for the Berlin webpage).

345. See Bergen Bologna Website, *supra* note 43 (providing a comprehensive website); U.K. Bologna Website, *supra* note 44 (providing a similar website); Benelux Bologna Website, *supra* note 41 (providing a similar website).

346. See Berlin Bologna, National Reports, http://www.bologna-berlin2003.de/en/national_reports/haupt.htm (last visited Nov. 5, 2007) (including links to all participants' reports).

347. Berlin Bologna, List of Official Conferences Between Prague and Berlin 2002–2003, http://www.bologna-berlin2003.de/en/bologna_seminars/conferences.htm (last visited Nov. 5, 2007). The six seminars were: (1) accreditation and quality assurance; (2) recognition issues and the use of credits; (3) development of joint degrees; (4) degrees and qualification structures; (5) social dimension of the Bologna Process (with special attention to obstacles of mobility); and (6) student involvement and lifelong learning. *Id.*

348. See Berlin Bologna, Seminar Results and Related Papers, http://www.bologna-berlin2003.de/en/bologna_seminars/seminar_results_and_related_pape.htm (last visited Nov. 5, 2007) (providing links to these results and papers).

349. 2003 ZGAGA REPORT, *supra* note 343; Berlin Bologna, Other Conferences in 2003, http://www.bologna-berlin2003.de/en/bologna_seminars/Conferences2003.htm (last visited Nov. 5, 2007).

activities,³⁵⁰ and a review of the EU's Report that analyzed the progress that had been made on EU initiatives relevant to the Bologna Process.³⁵¹ The Council of Europe's activities are documented in a report it prepared³⁵² and on the Berlin Bologna website.³⁵³

University and student groups also were active in the period following the 2001 Prague meeting. The EUA prepared its third "Trends" report³⁵⁴ and also prepared a report on Joint Degrees.³⁵⁵ The student group ESIB prepared its first *Bologna With Student Eyes* report in 2003, in anticipation of the Berlin Ministerial Meeting.³⁵⁶ Other groups were also active during this period: the Berlin Bologna webpage includes links to twenty-four position papers.³⁵⁷ The Berlin Bologna website also includes a table that summarized the views in many of these position papers.³⁵⁸

In addition to the seminars and reports mentioned above, a concerted effort ensued to educate Bologna Process members and others. The Berlin Bologna website included links to the higher education acts of selected countries, a glossary explaining the various acronyms and terms, a "news" page, and a links page.³⁵⁹ Thus, by the time the 2003 Berlin meeting occurred, significant preparatory work had been done.

350. See Berlin Bologna, EU Activities, <http://www.bologna-berlin2003.de/en/activities/index.htm> (last visited Nov. 5, 2007) (listing sixteen different links showing the EU's activities related to education and the Bologna Process).

351. See, e.g., European Comm'n, Directorate-General for Educ. & Culture, *From Prague to Berlin: The EU Contribution: Second Progress Report* (Feb. 14, 2003), available at http://www.bologna-berlin2003.de/pdf/Text2_KOM.pdf (providing progress updates on steps taken in the Bologna Process).

352. *Contributions to the Bologna Process 2003*, *supra* note 142.

353. Berlin Bologna, Activities of the Council of Europe, http://www.bologna-berlin2003.de/en/prague_berlin/act_Concil_of.htm (last visited Nov. 5, 2007).

354. European Univ. Ass'n, *Trends 2003: Progress Towards the European Higher Education Area*, July 2003 (prepared by Sybill Reichert & Christian Tauch), available at http://www.bologna-berlin2003.de/pdf/Trends_III_neu.pdf.

355. European Univ. Ass'n, *Survey on Master Degrees and Joint Degrees in Europe*, Sept. 2002 (prepared by Christian Tauch & Andrejs Rauhvargers), available at http://www.bologna-berlin2003.de/pdf/Survey_Master_Joint_degrees.pdf.

356. ESIB, BOLOGNA WITH STUDENT EYES (2003), available at http://www.esib.org/index.php?option=com_docman&task=doc_view&gid=124&Itemid=263 [hereinafter BOLOGNA WITH STUDENT EYES 2003].

357. Berlin Bologna, Main Documents, http://www.bologna-berlin2003.de/en/main_documents/index.htm (last visited Nov. 5, 2007).

358. CHRISTIAN TAUCH & SIEGBERT WUTTIG, COMPARATIVE ANALYSIS OF SELECTED STATEMENTS ON THE EUROPEAN HIGHER EDUCATION AREA, BASED ON THE BOLOGNA DECLARATION AND THE PRAGUE COMMUNIQUÉ (2002), available at http://www.bologna-berlin2003.de/en/main_documents/docu/comparative.htm.

359. Berlin Bologna, *supra* note 344.

D. *The 2003 Berlin Communiqué and Aftermath*

1. Berlin Communiqué

In September 2003, approximately two years after the Prague meeting, ministers from forty countries met in Berlin and adopted the Berlin Communiqué.³⁶⁰ The Zgaga Report, which summarized the developments that had occurred between the 2001 Prague meeting and the 2003 Berlin meeting, provided the basis for much of the Berlin Communiqué.³⁶¹

The Berlin Communiqué reviewed the progress to date in achieving the objectives of the Bologna Process, established additional priorities for the Bologna Process, and reaffirmed the participants' commitment to the EHEA.³⁶² The 2003 Berlin Communiqué was much longer and more detailed than the 1998 Sorbonne Declaration, the 1999 Bologna Declaration, or the 2001 Prague Communiqué.³⁶³

The 2003 Berlin Communiqué began with a two-page, seven-paragraph Preamble that elaborated the participants' goals. This Preamble took note of the conclusions of the European Councils in Lisbon (2000) and Barcelona (2002) that Europe should become "the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion;" the Preamble called for "further action and closer co-operation in the context of the Bologna Process."³⁶⁴ It also stressed the importance of both social cohesion and maintaining academic values.³⁶⁵

360. Berlin Communiqué, *supra* note 8.

361. *Id.*; 2003 ZGAGA REPORT, *supra* note 343. For example, the 116-page Zgaga Report discussed the official Bologna Follow-up Seminars that had been requested in the 2001 Prague Communiqué; the contributions of the European Commission, Council of Europe; various European educational organizations including EUA, EURASHE, and ESIB; Bologna activities at national, institutional and subject-specific levels; and Networking, pilot projects, and development.

362. Berlin Communiqué, *supra* note 8.

363. Compare *id.* (nine pages), with Sorbonne Declaration, *supra* note 12 (three pages), and Bologna Declaration, *supra* note 2 (four pages of text and two pages of signatories), and Prague Communiqué, *supra* note 15 (three pages).

364. Berlin Communiqué, *supra* note 8, at 2. See also *supra* Part II.A.4 (discussing these European Council statements); 2003 ZGAGA REPORT, *supra* note 343, at 46 (referring to the Bologna Process goal of making the European Higher Education Area more competitive and stating: "Stockholm seminar participants stated that joint degrees are important instruments for implementing the objectives set out in the Bologna Declaration and the Prague Communiqué: promoting student and teacher mobility, employability, quality, the European dimension and the attractiveness and competitiveness of the EHEA."). The Zgaga Report also discusses the competitiveness agenda. *Id.* at 99.

365. Berlin Communiqué, *supra* note 8, at 1.

The second section of the 2003 Berlin Communiqué was entitled “Progress.” Despite its name, this section of the Berlin Communiqué did not focus on the past or recite the progress that had been made concerning each of the six objectives in the Bologna Declaration.³⁶⁶ Instead, this section of the Communiqué focused on the future and outlined in fairly specific detail some of the steps that could be taken to achieve each of the six Bologna Declaration objectives.³⁶⁷ For example, with respect to quality assurance, the Berlin Communiqué stated that by 2005, there should be national quality assurance systems that include a definition of the responsibilities of the bodies and institutions involved; evaluation of programs or institutions, including internal and external review; participation of students and publication of results; and a system of accreditation, certification, or comparable procedure.³⁶⁸ The Berlin Communiqué further directed that there be international co-operation and networking and asked the E4 organizations—ENQA, EUA, EURASHE, and ESIB—to work together to develop an agreed set of standards, procedures, and guidelines on quality assurance and peer review.³⁶⁹ The Berlin Communiqué asked these groups to report back by 2005.³⁷⁰

Although the Berlin Communiqué emphasized the importance of all six of the Bologna Declaration goals, it identified three intermediate objectives that it asked participants to focus on during the next two years in order to give the Bologna Process further momentum.³⁷¹ These three intermediate priorities were:

- strengthening efforts to promote effective quality assurance systems;
- stepping up effective use of the system based on two cycles of degrees, namely undergraduate and graduate degrees; and

Ministers reaffirm the importance of the social dimension of the Bologna Process. The need to increase competitiveness must be balanced with the objective of improving the social characteristics of the European Higher Education Area, aiming at strengthening social cohesion and reducing social and gender inequalities both at national and at European level. In that context, Ministers reaffirm their position that higher education is a public good and a public responsibility. They emphasise that in international academic cooperation and exchanges, academic values should prevail.

Id.

366. *Id.* at 3–6.

367. *Id.*

368. *Id.* at 3.

369. *Id.*

370. *Id.*

371. *Id.*

- improving recognition of the system of degrees and periods of studies.³⁷²

The third section in the Berlin Communiqué was entitled “Additional Actions” and expanded the Bologna Process objectives to include not just a two-cycle degree program (bachelors and masters), but also a three-cycle degree program that would include the doctoral degree.³⁷³ The Communiqué explained the rationale for this new objective, stating that the doctoral degree had been added to the Bologna Process

[because of] the importance of research and research training and the promotion of interdisciplinarity in maintaining and improving the quality of higher education and in enhancing the competitiveness of European higher education more generally.³⁷⁴

In order to implement this new objective, the Berlin Communiqué called for increased mobility at the doctoral and postdoctoral levels; agreed to ask universities to increase the role and relevance of their research to technological, social, and cultural evolution, as well as to the needs of society (while noting that these efforts require increased financial support); and noted that doctoral networks should be supported in order to stimulate the development of excellence.³⁷⁵

In addition to expanding the objectives of the Bologna Process, the “Additional Actions” section of the 2003 Berlin Communiqué stated that a Stocktaking Exercise should be prepared for the 2005 meeting.³⁷⁶ As part of this request, the Communiqué directed that detailed reports be prepared regarding the progress achieved with respect to the three identified priorities: (1) quality assurance, (2) the two-cycle system, and (3) recognition of degrees and periods of studies.³⁷⁷ The Communiqué also directed the participants to facilitate access to data banks, ongoing research, and research results.³⁷⁸

The “Additional Actions” section of the 2003 Berlin Communiqué revised the criteria for membership that had appeared in the 2001 Prague Communiqué.³⁷⁹ The new criteria permitted countries who were parties to the European Cultural Convention to join the European Higher Education Area—i.e., the Bologna Process—provided they satisfied two conditions: applicant countries had to

372. *Id.*

373. *Id.* at 7.

374. *Id.*

375. *Id.*

376. *Id.*

377. *Id.*

378. *Id.*

379. Berlin Communiqué, *supra* note 8, at 8; Prague Communiqué, *supra* note 15, at 3.

declare their willingness to pursue and implement the objectives of the Bologna Process in their own systems of higher education, and include information in their applications that explained how they planned to accomplish this.³⁸⁰ The 2003 Berlin Communiqué observed that the participants had agreed to accept seven new members, bringing the Bologna Process participants to forty.³⁸¹

In one of its final sections, the 2003 Berlin Communiqué significantly expanded the groups to which work was delegated. In addition to the BFUG, the Berlin Communiqué directed that a Secretariat be created, along with a Board that would oversee the work that occurred between meetings of the BFUG.³⁸² The Berlin Communiqué indicated that both the BFUG and the Board could convene ad hoc working groups if deemed necessary.³⁸³

2. Post-Berlin Follow-up Work

After the 2003 Berlin Ministerial Conference, the Bologna Process governments took a number of steps to implement the Berlin Communiqué. The government of Norway assumed the position of Secretariat and launched a website since it was the site of the next Ministers' meeting.³⁸⁴ The Bergen Secretariat webpage used a similar structure to the Berlin meeting webpage and included many of the materials available on the Berlin 2003 website.³⁸⁵ In addition, it added information about presentations³⁸⁶ and included links to

380. Berlin Communiqué, *supra* note 8, at 8.

381. *Id.* The seven additional members included: (1) Albania, (2) Andorra, (3) Bosnia and Herzegovina, (4) Holy See, (5) Russia, (6) Serbia and Montenegro, and (7) "the Former Yugoslav Republic of Macedonia." *Id.* The official Bologna Process documents are somewhat confusing regarding the number of Bologna Process members. See *infra* app. 1 for a listing of all participants. In 1998, there were four signatories to the Sorbonne Declaration. See Sorbonne Declaration, *supra* note 12, at 3 (including France, Germany, Italy and the United Kingdom as the four signatories). One year later, there were twenty-nine signatories to the Bologna Declaration. See Bologna Declaration, *supra* note 17, at 5–6 (listing these additional signatories). The 2001 Prague Communiqué states that it has thirty-two signatories and refers to three new members of Croatia, Cyprus, and Turkey. Prague Communiqué, *supra* note 15, at 1, 3. The 2003 Berlin Communiqué, however, refers to the existing thirty-three signatories, rather than thirty-two. Berlin Communiqué, *supra* note 8, at 1. The discrepancy appears to reflect Liechtenstein, who is listed as a member of the Bologna Process and who must have joined sometime around the Prague meeting. *Id.*

382. Berlin Communiqué, *supra* note 8, at 8.

383. *Id.*

384. Bergen Bologna Website, *supra* note 43.

385. See Bergen Bologna, About the Web Site, *supra* note 344 (describing the history and development of the website).

386. See Bergen Bologna, Presentations, <http://www.bologna-bergen2005.no/EN/Presentations/Present1.htm> (last visited Nov. 5, 2007) (listing links to several presentations).

materials prepared by additional participating organizations.³⁸⁷ The Bergen Secretariat webpage also included an Intranet website, the contents of which were made public after the 2005 Bergen meeting.³⁸⁸ This webpage includes links to web pages that contain the agendas, minutes, and supporting documents of both the BFUG and the BFUG Board, as well as materials from the meetings of the Working Groups on Stocktaking, Qualifications Framework, and Communiqué Drafting.³⁸⁹

One of the first actions taken by the BFUG was the adoption of its *Work Programme*.³⁹⁰ The first section of this document identified the priorities for the next two years, listed the ten “action lines” of the Bologna Process, and explained the coordination role of the BFUG.³⁹¹ The second section identified fourteen seminars as central to the conduct of the BFUG Work Programme; these seminars addressed topics such as joint degrees, distance education, assessment and accreditation, mobility, the bachelor’s degree, improving the recognition system, the European Qualifications Framework, the social dimension of higher education facing world-wide competition, doctoral programs, and co-operation between accreditation agencies.³⁹² Some of these events were sponsored by Bologna Process consultative members or stakeholder groups, rather than the Bologna Process governments themselves.³⁹³ The *Work Programme* next identified the ongoing Bologna projects, including (1) the ENQA project to develop standards, procedures, and guidelines for quality assurance; (2) the need to develop an overarching framework of qualifications; and (3) the support of new member countries.³⁹⁴ It

387. See Bergen Bologna, Participating Organizations, *supra* note 67 (listing these links to participating organizations).

388. Bergen Bologna, Behind the Curtain, Service Page for the Follow-up Group and the BFUG Board 2004–2005, <http://www.bologna-bergen2005.no/B/HIND.HTM> (last visited Nov. 5, 2007). Many of these documents were not posted until after the Bergen Ministerial meeting. See Bergen Bologna, About the Web Site, *supra* note 344.

During the period between the Ministerial meeting in Berlin in September 2003 and in Bergen May 2005, all working documents were available for the Bologna Follow-up Group and for the BFUG Board, on a hidden page on the web. This page was called ‘Behind the Curtain’. As mentioned in the General report, Behind the Curtain is mad[e] available for all interested parties as of 30 June 2005.

Id.

389. Behind the Curtain, *supra* note 388.

390. WORK PROGRAMME 2003–2005 FOR THE BOLOGNA FOLLOW-UP GROUP (2004), available at http://www.bologna-bergen2005.no/B/BFUG_Meetings/040309DublinBFUG2_3.pdf [hereinafter 2003-2005 WORK PROGRAMME].

391. *Id.* at 1–3.

392. *Id.* at 3–4.

393. *Id.*

394. *Id.* at 4–5.

then listed a number of initiatives by governmental or stakeholder groups that were relevant to Bologna Process work.³⁹⁵ These other initiatives included (1) the work of the ENIC and NARIC networks to implement the Lisbon Recognition Convention and develop international recognition standards), (2) the survey information collected by the ESIB regarding the social and economic situation of students, (3) the EU Commission report on European co-operation in quality assurance, and (4) the European University Association project on doctoral programs.³⁹⁶ The *Work Programme* also identified topics that might be useful to discuss within the BFUG, including globalization and the procedures for both candidate members and NGOs.³⁹⁷ The *Work Programme* assigned responsibility for the Stocktaking Report that the Bologna Process Ministers had requested in the Berlin Communiqué.³⁹⁸ The *Work Programme* concluded by identifying a number of entities that should report to the Ministerial Conference; it asked the Secretariat to draft a report for approval by the BFUG and also requested national reports to be prepared by the Bologna Process participants, an updated “National Trends” report from Eurydice, and a Trends 2005 report by the EUA.³⁹⁹

During the two year period between the Berlin and Bergen meetings, the BFUG and its working groups were quite active. For example, in February 2005, the Bologna Working Group on Qualifications Frameworks issued its two-hundred page report entitled *A Framework for Qualifications of the European Higher Education Area*.⁴⁰⁰ This report, which resulted in a proposed qualifications framework that was adopted in 2005, was a response to the invitation in the Berlin Communiqué and was based on the work that had begun at a conference held in Copenhagen.⁴⁰¹ The official Bologna Process seminars also generated a number of recommendations for the BFUG and Bologna Process members.⁴⁰²

395. *Id.* at 6.

396. *Id.*

397. *Id.* at 7.

398. *Id.*

399. *Id.* at 7–8.

400. BOLOGNA WORKING GROUP ON QUALIFICATIONS FRAMEWORKS, A FRAMEWORK FOR QUALIFICATIONS OF THE EUROPEAN HIGHER EDUCATION AREA (2005), available at http://www.bologna-bergen2005.no/Docs/00-Main_doc/050218_QF_EHEA.pdf [hereinafter EHEA QUALIFICATIONS FRAMEWORK REPORT].

401. *Id.* at 153–56. The Rapporteur endorsed the following summary of the Working Group’s proposed framework: (1) the EHEA framework should consist of three main cycles, with additional provision for a short cycle—or short higher education—within the first cycle; (2) the Dublin Descriptors are adopted as the cycle descriptors; (3) there are guidelines for the range of ECTS credits associated with the completion of each cycle; and (4) responsibility for the maintenance and development of the framework rests with BFUG. *Id.* at 175.

402. Bergen Bologna, Recommendations from Seminars Included in the BFUG Work Programme 2004–2005, http://www.bologna-bergen2005.no/EN/Bol_sem/Recom1.htm (last visited Nov. 5, 2007); Bergen Bologna, Bologna Seminars 2004–2005,

Other official Bologna Process activity included the 2004–2005 National Reports prepared by each Bologna Process member; these reports evaluated the country’s progress on the Bologna initiatives.⁴⁰³ Unlike the 2003 National Reports, the 2004–2005 versions used a standardized format that made it easier to find and compare information.⁴⁰⁴ These Reports provided much of the material that was used to develop the 2005 Stocktaking previously mandated by the 2003 Berlin Communiqué.⁴⁰⁵

In addition to the official Bologna Process activity, the Bologna Process consultative members were quite active following the 2003 Berlin meeting. They accepted the invitation in the Berlin Communiqué to study various issues and collect additional data.⁴⁰⁶ For example, in February 2005, ENQA issued a report entitled *Standards and Guidelines for Quality Assurance in the European Higher Education Area*.⁴⁰⁷ This ENQA report responded to the mandate in the Berlin Communiqué that ENQA and other stakeholder organizations develop “an agreed set of standards, procedures and guidelines on quality assurance” and “explore ways of ensuring an adequate peer review system for quality assurance and/or accreditation agencies or bodies” and then report back to the Bologna Follow-Up Group.⁴⁰⁸ Among other things, the ENQA report included a detailed model that illustrated the process by which one could conduct an external review of a quality assurance system.⁴⁰⁹

Eurydice also provided the information that had been requested by the Bologna Process participants. As requested in the Work Programme, Eurydice updated and expanded its prior report on higher education so that the report would include all Bologna Process countries.⁴¹⁰ The resulting report, which was issued in April 2005,

Recommendations, http://www.bologna-bergen2005.no/EN/Bol_sem/Sem-pres1.HTM (last visited Nov. 5, 2007).

403. See Bergen Bologna, National Reports 2005, http://www.bologna-bergen2005.no/EN/national_impl/05NAT_REP.HTM (last visited Nov. 5, 2007) (providing links to the reports by each country).

404. Compare *id.* (providing links to national reports in a consistent, simple format), with Bologna Bergen, National Reports 2003, http://www.bologna-bergen2005.no/EN/national_impl/03NAT_REP.htm (last visited Nov. 5, 2007) (providing links to national reports in a format more difficult to read).

405. See *infra* Part III.D.3 (describing the 2005 Stocktaking).

406. See Berlin Communiqué, *supra* note 8, at 8–9 (detailing the goals for the follow-up plan); see also 2003-2005 WORK PROGRAMME, *supra* note 390 (setting forth the follow-up plan details in accordance with the Ministers’ request in the Berlin Communiqué).

407. ENQA STANDARDS AND GUIDELINES REPORT, *supra* note 24.

408. *Id.* at 3.

409. *Id.* at 36. This model included details that addressed formulating terms of reference and protocol for the review; nomination and appointment of panel of experts; self-evaluation by the agency; a site visit; and reporting. *Id.*

410. See 2003-2005 WORK PROGRAMME, *supra* note 390, at 7–8 (explaining that an updated Eurydice report extended to all Bologna member countries).

was entitled *Focus on the Structure of Higher Education in Europe, 2004/05: National Trends in the Bologna Process*.⁴¹¹ The report included diagrams and information about the education systems in each of the Bologna Process participant countries, together with cumulative data that summarized the results.⁴¹²

The EUA also responded to the invitation contained in the Work Programme when it prepared its Trends IV report.⁴¹³ Trends IV required extensive research because it was based on university questionnaire responses and site visits to 62 universities.⁴¹⁴ Trends IV reviewed university attitudes towards the Bologna Process' three priority action lines and noted the implementation difficulties the Bologna Process presented.⁴¹⁵ Because this was the fourth such "Trends" report, the EUA was able to observe changes in attitude that had occurred.⁴¹⁶ It concluded that universities were now embracing reform and that their current attitudes towards reform contrasted sharply with the views they had expressed two years earlier.⁴¹⁷

Another important post-Berlin development was the work on joint degrees undertaken by UNESCO and the Council of Europe. In June 2004, the UNESCO/Council of Europe committee adopted two important documents: the *Recommendation on the Recognition of Joint Degrees* and an accompanying explanatory memorandum, which was adopted as a subsidiary text to the Lisbon Convention.⁴¹⁸ The *Joint Degree Recommendation* was based on work done by the ENIC/NARIC networks of information centers.⁴¹⁹

411. EURYDICE NATIONAL TRENDS 2004/05, *supra* note 115.

412. *Id.*

413. SYBILLE REICHERT & CHRISTIAN TAUCH, EUROPEAN UNIV. ASS'N, TRENDS IV: EUROPEAN UNIVERSITIES IMPLEMENTING BOLOGNA (2005), *available at* http://www.bologna-bergen2005.no/Docs/02-EUA/050425_EUA_TrendsIV.pdf [hereinafter TRENDS IV].

414. *Id.* at 4.

415. *Id.*

416. *Id.* at 8.

417. *Id.* at 4.

418. Comm. of the Convention on the Recognition of Qualifications Concerning Higher Educ. in the European Region, *Recommendation on the Recognition of Joint Degrees* (June 9, 2004), *available at* http://www.ond.vlaanderen.be/hogeronderwijs/bologna/documents/LRC/Recommendation_joint_degrees_9-June-2004.pdf [hereinafter *UNESCO Recommendation on the Recognition of Joint Degrees*]; Comm. of the Convention on the Recognition of Qualifications Concerning Higher Educ. in the European Region, *Explanatory Memorandum To The Recommendation On The Recognition Of Joint Degrees* (June 9, 2004), *available at* http://www.bologna-bergen2005.no/EN/Other/Lisbon_Rec-doc/040609_Recommendation_joint_degrees_Explanatory.pdf; *see also* BFUG REPORT FOR THE BERGEN MINISTERIAL MEETING, *supra* note 14, at 4 (noting the adoption of these two documents).

419. *See* ENIC Network & NARIC Network, *Strasbourg Statement on Recognition Issues in the European Higher Education Area*, ¶ 6 (2004), *available at* <http://www.enic-naric.net/documents/StrasbourgStatement2004.en.pdf> [hereinafter *ENIC/NARIC Strasbourg Statement*] (explaining that this recommendation was the

In addition to these items, the consultative members prepared additional reports, including *Bologna With Student Eyes* 2005,⁴²⁰ and hosted seminars related to the Bologna Process.⁴²¹ Links to these seminars were available to the Bologna Process members.⁴²² Many of these seminars generated recommendations for the BFUG⁴²³ or position papers.⁴²⁴

3. The 2005 Stocktaking Report

One of the most important activities that occurred after the 2003 Berlin Ministerial Conference was the preparation of the “stocktaking” exercise required by the 2003 Berlin Communiqué.⁴²⁵ The 2005 Stocktaking is an extensive document that gathered and synthesized a tremendous amount of material and was prepared under the auspices of the BFUG, its Board, and the Stocktaking Working Group.⁴²⁶ The BFUG established this Working Group during its March 2004 meeting.⁴²⁷ The BFUG asked the Working Group to prepare detailed reports regarding the progress and implementation of the three priority areas defined for the period 2003–2005: quality assurance, the two-cycle degree system, and recognition of degrees and periods of study.⁴²⁸

The BFUG Stocktaking Working Group met five times in 2004 and 2005 before issuing its Report.⁴²⁹ The two primary sources of data for the 2005 Stocktaking Report were the National Reports that each participant country completed based on a template on the Bologna Process website and the participant countries’ responses to a

basis for the June 9, 2004 action by the UNESCO/Council of Europe Committee recommendation on joint degrees).

420. Bergen Bologna, Other Initiatives Impacting on the BFUG Work Programme, http://www.bologna-bergen2005.no/EN/Work_prog/3Prog_BFUG_work-p-3-Other.HTM (last visited Nov. 5, 2007); ESIB, BOLOGNA WITH STUDENT EYES (2005), available at http://www.bologna-bergen2005.no/EN/Part_org/ESIB/050510_ESIB-Analysis.pdf.

421. See Bergen Bologna, Other Bologna Follow-Up Seminars and Seminars of Interest, http://www.bologna-bergen2005.no/EN/Bol_sem/Sem-pres2.HTM (last visited Nov. 5, 2007) (listing these seminars); see also Bergen Bologna, News and Current Issues, <http://www.bologna-bergen2005.no/EN/News/01New.HTM> (last visited Nov. 5, 2007) (listing activities for the two year period).

422. Bergen Bologna, Other Bologna Follow-Up Seminars and Seminars of Interest, *supra* note 421.

423. See Bergen Bologna, Recommendations from Previous Seminars, http://www.bologna-bergen2005.no/EN/Bol_sem/Recom2.htm (last visited Nov. 5, 2007) (providing links to the recommendations from these seminars).

424. Bergen Bologna, Position Papers for 2005, <http://www.bologna-bergen2005.no/EN/Other/05Pos.HTM> (last visited Nov. 5, 2007).

425. 2005 STOCKTAKING, *supra* note 35.

426. *Id.*

427. *Id.* at 10.

428. *Id.* at 5.

429. *Id.* at 10.

questionnaire circulated by Eurydice.⁴³⁰ Eurydice prepared the Stocktaking questionnaire at the request of, and incorporated suggestions from, the BFUG.⁴³¹

The 2005 Stocktaking identified ten different indicators or “benchmarks” that it would use to measure participants’ progress in the three priority categories.⁴³² For each benchmark, the report identified what actions were required in order for a country to earn a rating of (1) excellent, (2) very good, (3) good, (4) some progress, or (5) little progress.⁴³³ The Stocktaking Report assigned colors to each of these rating categories; the colors were green, light green, yellow, orange, or red.⁴³⁴

Over 40 pages of the 106-page stocktaking report consist of country “scorecards” that assign a color-coded rating to the country for each of these ten benchmarks.⁴³⁵ Because these country “scorecards” used a color-coded rating system, it was easy to compare and evaluate countries’ progress in implementing the Bologna objectives.

In addition to these country scorecards, the 2005 Stocktaking included qualitative and quantitative analyses of the data collected and several different summary tables.⁴³⁶ The 2005 Stocktaking concluded that overall, there had been “very good performance” by the Bologna Process countries in collectively implementing the Bologna Process.⁴³⁷ The 2005 Stocktaking Report also included subtotal rankings for each of three priority objectives of the Bologna Process; these too showed “very good performance” by the Bologna Process participants in the three categories: degree system, recognition, and quality assurance.⁴³⁸ It also found that with one exception, there had been “very good performance” on each of the ten benchmarks.⁴³⁹ The Report concluded that these results demonstrated a “real commitment on the part of all participating countries to making the European Higher Education Area a reality.”⁴⁴⁰

430. *Id.* at 11–12.

431. *Id.* at 12.

432. *Id.* at 15–22.

433. *Id.*

434. *Id.*

435. *Id.* at 64–106.

436. *Id.* at 25–41.

437. *Id.* at 40–41. The summary table included an overall ranking for each of the three subcategories, which meant that the summary table showed comparative rankings on 13 items. *Id.* at 41. Interestingly, the country scorecards did not include the subtotal rankings for the three main categories. *See generally id.* at 64–106 (showing that the scorecard reveals there is no subtotal rankings).

438. *Id.* at 25 tbl. 3.1, 27 tbl. 3.2, 33 tbl. 3.3, 36 tbl. 3.3.

439. *Id.* at 41. The one exception involved student participation in quality assurance programs; collectively, the Bologna Process participants achieved “good,” rather than “very good” performance on this criterion. *Id.* at 42–43.

440. *Id.* at 42.

Following its analysis and these conclusions, the Stocktaking Report introduced the following five recommendations for action at the 2007 Ministerial Meeting:

Recommendation 1 . . .

. . . [that] a process of formal engagement should be initiated with employer organizations at national level. The objective of such engagement should be to communicate the process of reform, combined with ensuring the employability of the bachelor graduate. This process of engagement should also take place at the level of the Bologna Follow-up Group. . . .

Recommendation 2 . . .

. . . that a working group be established to prepare a report on the issues associated with equitable access, and its conclusions, and should, if possible, recommend a series of benchmarks to measure action in this area. . . .

Recommendation 3 . . .

. . . that each participating country should prepare an action plan to improve the quality of the process associated with the recognition of foreign qualifications. . . .

Recommendation 4 . . .

. . . that the Bologna Follow-up Group should encourage bilateral and multilateral support mechanisms to assist participating countries in the implementation of the various action lines of the Bologna Process. . . .

Recommendation 5 . . .

. . . that the stocktaking process should continue to report on progress for each Ministerial Conference. The process should be resourced appropriately, and mandated to address the action lines as approved by the Bologna Follow-up Group.⁴⁴¹

In sum, 2005 was the first time that a Stocktaking Report was prepared. Its development of benchmarks and a color-coded “scorecard” approach appear to have been exceedingly influential in encouraging countries to make the dramatic changes called for in the Bologna Process.

E. *The 2005 Bergen Communiqué and Aftermath*

1. The Bergen Communiqué

The 2005 Bergen Ministerial Conference represented the chronological mid-point in the effort to develop the European Higher Education Area.⁴⁴² During their Bergen conference, the Bologna Process Ministers adopted three separate documents. These included

441. *Id.* at 48–50.

442. Bergen Communiqué, *supra* note 17, at 1.

the Bergen Communiqué,⁴⁴³ the *Standards and Guidelines for Quality Assurance in the EHEA*,⁴⁴⁴ and the *Framework of Qualifications for the European Higher Education Area*.⁴⁴⁵ Each of these three documents is discussed below.

The Bergen Communiqué is a six-page document that contains both very general and very specific statements.⁴⁴⁶ One of the general statements is the Ministers' reaffirmation of their commitment to the Bologna Process principles, objectives, and commitments.⁴⁴⁷ Specific statements are included throughout the five sections of the 2005 Bergen Communiqué that address (1) "Partnership," (2) "Taking Stock," (3) "Further Challenges and Priorities," (4) "Taking Stock on progress for 2007," and (5) "Preparing for 2010."⁴⁴⁸ The Partnership section was an introductory section that stressed the central role of higher education institutions, staff, and students and encouraged these actors to intensify their efforts to establish the European Higher Education Area.⁴⁴⁹ This section acknowledged, however, that it takes time to implement structural curricular changes.⁴⁵⁰ It emphasized the need to better engage business and social partners, which was one of the recommendations of the 2005 Stocktaking Report.⁴⁵¹

Despite its name, the "Taking Stock" section of the Bergen Communiqué contained a number of new initiatives and commitments. The section began with a summary that concluded that substantial progress had been made on the three Bologna objectives previously identified as 2005 priorities.⁴⁵² Noting that it was important to ensure consistent progress by all participants, this section emphasized the need for greater sharing of expertise at both the institutional and governmental level.⁴⁵³ This section included subsections for each of the three priority items: (1) the degree system, (2) quality assurance, and (3) the recognition of degrees and study

443. *Id.*

444. ENQA STANDARDS AND GUIDELINES REPORT, *supra* note 24.

445. QUALIFICATIONS FRAMEWORK, *supra* note 25.

446. Bergen Communiqué, *supra* note 17.

447. *Id.*

448. *Id.*

449. *Id.*

450. *Id.*

451. *Compare id.* ("We welcome the support of organisations representing business and the social partners . . ."), with 2005 STOCKTAKING, *supra* note 35, at 48 (recommending "a process of formal engagement . . . with employer organisations at [a] national level"). The "Partnership" section of the Communiqué also welcomed the contributions of international institutions and organizations. Bergen Communiqué, *supra* note 17, at 1.

452. See Bergen Communiqué, *supra* note 17, at 2 (citing Trends IV Report and BFUG Report to reach conclusions); see also Trends I–IV, *supra* note 189 (linking to Trends IV Report, which relies extensively on 2005 Stocktaking Report); BFUG REPORT FOR THE BERGEN MINISTERIAL MEETING, *supra* note 14 (relying on the same).

453. Bergen Communiqué, *supra* note 17, at 2.

periods.⁴⁵⁴ In each of these subsections, the Communiqué included a summary of the progress to date and identified a number of new initiatives and steps to be taken.⁴⁵⁵ For example, in the degree system subsection of the report, the Ministers noted with satisfaction the fact that the two-cycle degree system had been implemented on a large scale, with more than half the students being enrolled in it in most countries.⁴⁵⁶ They pointed out, however, that there were still some obstacles to access between cycles and that there was a need for greater dialogue in order to increase the employability of graduates with bachelor degrees.⁴⁵⁷

But the “Taking Stock” section of the Bergen Communiqué went beyond a mere progress report. In this section of the Communiqué, the Ministers adopted the Framework of Qualifications for the EHEA that had been developed by the BFUG (the *EHEA Qualifications Framework*).⁴⁵⁸

In addition to adopting the *EHEA Qualifications Framework*, the “Taking Stock” section of the 2005 Bergen Communiqué set forth an ambitious work plan.⁴⁵⁹ For example, the Bologna Ministers agreed to develop by 2010 a national qualifications framework for each country that would be consistent with the overarching qualifications framework the Ministers had just adopted.⁴⁶⁰ They further agreed to begin this work by 2007.⁴⁶¹ They directed the BFUG to report in 2007 on the implementation and further development of the *EHEA Qualifications Framework*.⁴⁶² Finally, this section of the Communiqué stressed the need for consultation to ensure compatibility between the Bologna Process framework and the European Commission’s proposed framework for lifelong learning qualifications.⁴⁶³

Similar to the “Degree System” section, the “Quality Assurance” portion of the “Taking Stock” section also adopted a new document, identified new initiatives, and included a progress report.⁴⁶⁴ The Ministers adopted the *Standards and Guidelines for Quality*

454. *Id.* at 2–3.

455. *Id.*

456. *Id.*

457. *Id.* at 2.

458. *Id.* The *EHEA Qualifications Framework* is described in more detail *infra* notes 493–99 and accompanying text.

459. *Id.* at 2–3.

460. *Id.* at 2.

461. *Id.*

462. *Id.*

463. *Id.*

464. *Id.* at 2–3.

Assurance in the EHEA, which included the twenty-four quality assurance standards proposed by ENQA.⁴⁶⁵

After adopting the *Standards and Guidelines*, the 2005 Bergen Communiqué asked ENQA to develop the practicalities for implementing these quality assurance standards and to report back on this initiative.⁴⁶⁶ The Ministers also committed themselves to the development of a proposed model for peer review of quality assurance agencies and welcomed the idea of having a European register of quality assurance agencies.⁴⁶⁷ After noting that almost all countries had made provisions for quality assurance systems based on the criteria in the Berlin Communiqué, the Ministers emphasized the need for greater student involvement and international cooperation.⁴⁶⁸ The Bergen Communiqué also urged higher-education institutions to continue their efforts to enhance the quality of their activities through the systematic use of internal mechanisms and external quality assurance programs.⁴⁶⁹

The 2005 Bergen Communiqué subsection on recognition of degrees and study periods also included a status report and a number of new initiatives.⁴⁷⁰ The Ministers began this subsection by noting that most Bologna Process participants had adopted the Lisbon Recognition Convention, but urged the remaining twenty percent of participants to do so.⁴⁷¹ The Ministers committed themselves to full implementation of its principles and to incorporating the Lisbon Convention into their national legislation where appropriate.⁴⁷² They agreed to draw up “national action plans to improve the quality of the processes associated with the recognition of foreign degrees.”⁴⁷³ The Ministers also directed participants to include information about their national action plans in their 2007 national reports.⁴⁷⁴ The Ministers “express[ed] support for the subsidiary texts to the Lisbon Recognition Convention and call[ed] upon Bologna national authorities and stakeholders to recognize joint degrees awarded” in two or more EHEA countries.⁴⁷⁵ They also called on participants to

465. *Id.* at 3; ENQA STANDARDS AND GUIDELINES REPORT, *supra* note 24. These Standards and Guidelines are described in more detail *infra* notes 500–02 and accompanying text.

466. Bergen Communiqué, *supra* note 17, at 3. The Ministers asked ENQA to work in cooperation with EUA, EURASHE, and ESIB. *Id.*

467. *Id.*

468. *Id.*

469. *Id.*

470. *Id.*

471. *See id.* (observing that thirty-six of the forty-five, or eighty percent, of the participants had adopted the Lisbon Recognition Convention).

472. *Id.*

473. *Id.*

474. *Id.*

475. *Id.* *See supra* notes 161 and 418 for information about these subsidiary documents.

address the recognition problems that had been identified by the ENIC/NARIC networks.⁴⁷⁶ The ENIC/NARIC networks had identified the following problems:

[A] number of persistent recognition problems arise from inadequate legal provision in member states, insufficient resources and, in some cases, inflexible attitudes concerned more with the letter of the law than with the reasonable interpretation of its spirit, leading to undue delays, problems of nonrecognition and discrimination and perceptions of inefficiency and ill will.⁴⁷⁷

In this section of the Communiqué, the Bologna Process participants promised to work with higher education institutions and others to improve these recognition issues.⁴⁷⁸

The third section of the Bergen Communiqué was entitled “Further Challenges and Priorities.”⁴⁷⁹ This section outlined a number of new initiatives that concerned the Bologna Process objectives regarding (1) higher education and research, (2) the social dimension, (3) mobility, and (4) the attractiveness of the EHEA and cooperation with other parts of the world.⁴⁸⁰ For example, with respect to the objective regarding higher education and research, the Bergen Communiqué included a number of specific details, but also included general statements that emphasized the “importance of research and research training in maintaining and improving the quality of, as well as enhancing the competitiveness and attractiveness of the EHEA.”⁴⁸¹ The sections on social dimension and mobility were relatively short and expressed the Ministers’ commitment to ensuring access to higher education and mobility. With respect to cooperation with other parts of the world, the Communiqué included language that might be of particular interest to countries outside of Europe, including the United States:

We see the European Higher Education Area as a partner of higher education systems in other regions of the world, stimulating balanced student and staff exchange and cooperation between higher education institutions. We underline the importance of intercultural understanding and respect. We look forward to enhancing the understanding of the Bologna Process in other continents by sharing our experiences of reform processes with neighbouring regions. We stress the need for dialogue on issues of mutual interest. We see the

476. Bergen Communiqué, *supra* note 17, at 3.

477. ENIC/NARIC Strasbourg Statement, *supra* note 419, at 6–7; see also ENIC Network & NARIC Network, *Statement by the ENIC and NARIC Networks on the European Higher Education Area (Vaduz Statement)*, DG IV/EDU/HE (2003) 11 rev. 2 (May 20, 2003), available at http://www.bologna-bergen2005.no/Docs/03-Seminar_reports/030518-20ENIC_NARIC.PDF (outlining the goals and strategy of the ENIC/NARIC in contributing to the success of the Bologna Process).

478. Bergen Communiqué, *supra* note 17, at 3.

479. *Id.*

480. *Id.* at 3–5.

481. *Id.* at 3.

need to identify partner regions and intensify the exchange of ideas and experiences with those regions. We ask the Follow-up Group to elaborate and agree on a strategy for the external dimension.⁴⁸²

The fourth section of the 2005 Bergen Communiqué was entitled “Taking Stock on Progress for 2007.” This section directed the Bologna Follow-up Group to continue the stocktaking exercise first begun in 2005.⁴⁸³ It directed further stocktaking with respect to the areas of the degree system, quality assurance and recognition of degrees, although it noted that it expected these three intermediate priorities to be largely completed by 2007.⁴⁸⁴ This section also stated that it expected the stocktaking to be based on appropriate methodology.⁴⁸⁵ This section of the Bergen Communiqué then directed that the 2007 stocktaking process be widened to include four new topics:

- “implementation of the standards and guidelines for quality assurance as proposed in the ENQA [R]eport”;⁴⁸⁶
- “implementation of the national frameworks for qualifications”;
- “the awarding and recognition of joint degrees, including at the doctorate level”; and
- “creating opportunities for flexible learning paths in higher education, including procedures for the recognition of prior learning.”⁴⁸⁷

After listing these four items, the Bergen Communiqué continued by stating:

We also charge the Follow-up Group with presenting comparable data on the mobility of staff and students as well as on the social and economic situation of students in participating countries as a basis for future stocktaking and reporting in time for the next Ministerial Conference. The future stocktaking will have to take into account the social dimension as defined above.⁴⁸⁸

The final section of the Bergen Communiqué was entitled “Preparing for 2010.”⁴⁸⁹ In this section, the Bologna Ministers acknowledged both the importance of cooperation and the size of the

482. *Id.* at 5.

483. *Id.*

484. *Id.*

485. *Id.*

486. ENQA STANDARDS AND GUIDELINES REPORT, *supra* note 24.

487. Bergen Communiqué, *supra* note 17, at 5.

488. *Id.*

489. *Id.*

task they had undertaken, and the need for sustained funding.⁴⁹⁰ It stated that the next Ministerial Conference would take place in London in 2007 and recognized several new organizations as consultative members to the BFUG.⁴⁹¹ This section also instructed the BFUG to explore the arrangements needed to support the continuing development of the EHEA beyond 2010.⁴⁹²

2. Adoption of the EHEA Qualifications Framework

As the prior section explained, during their 2005 Bergen Ministerial Conference, the Bologna Process Ministers adopted the *EHEA Qualifications Framework*.⁴⁹³ The *EHEA Qualifications Framework* is a two-page document that provides quantitative and qualitative guidelines for each degree in the three-degree cycle.⁴⁹⁴ The qualitative guidelines include the desired learning outcomes and competences for each degree cycle.⁴⁹⁵ For example, the *EHEA Qualifications Framework* describes the third cycle (or doctorate degree) as requiring, *inter alia*, that the student has “demonstrated a systematic understanding of a field of study and mastery of the skills and methods of research associated with that field.”⁴⁹⁶ In contrast, the first cycle (or bachelor degree) phase only requires that students “have demonstrated knowledge and understanding in a field of study that builds upon their general secondary education, and is typically at a level that, whilst supported by advanced textbooks, includes some aspects that will be informed by knowledge of the forefront of their field of study.”⁴⁹⁷

The quantitative guidelines in the *EHEA Qualifications Framework* establish the desired credit ranges for the first and second degree cycles.⁴⁹⁸ For example, this document specifies that the first cycle degree (the bachelor degree) typically will be based on 180–240 credits using the ECTS, whereas the second cycle degree (a

490. *See id.* (“As we move closer to 2010, we undertake to ensure that higher education institutions enjoy the necessary autonomy to implement the agreed reforms, and we recognize the need for sustainable funding of institutions.”).

491. *See id.* at 6 (adding ENQA, UNICE and EI as consultative members of the BFUG).

492. *Id.*

493. Bergen Communiqué, *supra* note 17, at 3; Qualifications Framework, *supra* note 25.

494. Qualifications Framework, *supra* note 25. The EHEA Qualifications Framework refers to these cycles as the first-, second-, and third-degree cycles. *Id.* These cycles correspond to a bachelor’s degree, a master’s degree, and a doctorate degree. *See id.* (denoting the requisite number of ECTS credits required to complete each cycle).

495. *Id.*

496. *Id.* at 2.

497. *Id.* at 1.

498. *Id.*

master's degree) will require 90–120 ECTS credits, with a minimum of 60 credits taken at the second cycle level.⁴⁹⁹

3. Adoption of the European Quality Assurance Standards and Guidelines

In addition to the *EHEA Qualifications Framework*, the Bologna Ministers adopted the *Standards and Guidance for Quality Assurance* during their 2005 Bergen Conference.⁵⁰⁰ The *Standards and Guidelines* address internal quality assurance within higher education institutions, standards for external quality assurance, and standards for the agencies that conduct external quality assurance reviews.⁵⁰¹ Examples of some of these *Standards* include requirements that institutions have both policies and procedures for quality assurance; that students be assessed using published criteria that are applied consistently; that institutions satisfy themselves that those teaching students are competent and qualified; that external review should take into account the effectiveness of the internal review; that external review decisions should be based on explicit published criteria that are applied consistently; that external reviews should be undertaken periodically, with the length of the cycle and the review procedures clearly defined and published in advance; and that external quality assurance agencies be formally recognized by competent public authorities in the European Higher Education area.⁵⁰²

In sum, within the six pages of the 2005 Bergen Communiqué, the Bologna Process Ministers reaffirmed their commitment to the Bologna Process and set forth an ambitious work plan in order to achieve the Bologna Process objectives and the European Higher Education Area by the year 2010.

4. Post-Bergen Follow-up Work

After the Bergen meeting, there was a significant amount of follow-up work. This is documented in a number of locations, including the 2005–2007 Work Programme and the Secretariat's fifty-nine page Report about the work program.⁵⁰³ The first section of the

499. *Id.*

500. Bergen Communiqué, *supra* note 17, at 3; Standards and Guidelines for Quality Assurance, *supra* note 24.

501. Standards and Guidelines for Quality Assurance, *supra* note 24.

502. *Id.* These are only a few of the twenty-three standards included in the Standards and Guidelines for Quality Assurance. *Id.*

503. BFUG, BFUG WORK PROGRAMME 2005–2007 (May 11, 2007), available at <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=content.view&CategoryID=17&ContentID=40> [hereinafter 2005–2007 WORK PROGRAMME]; BOLOGNA SECRETARIAT, BERGEN TO LONDON 2007: SECRETARIAT REPORT ON THE BOLOGNA WORK

Work Programme listed nine key dates in the BFUG work schedule in addition to the London Ministerial Conference.⁵⁰⁴ The next section of the Work Programme identified, among other things, the six Working Groups of the BFUG and the members and lead individuals for each of those Working Groups.⁵⁰⁵ The next section of the 2005-2007 Work Programme listed eight Bologna Process seminars held during 2005–2008.⁵⁰⁶ These seminars addressed the issues of joint degrees; preparing students for the labor market and lifelong learning; promoting the employability of graduates with bachelor qualifications; European doctoral studies in transition; recognition of prior learning and European degrees outside of Europe; promoting employability of bachelor degree graduates; and various external dimension issues, including the attractiveness of the EHEA, developing strategies for the attractiveness of the EHEA, and competitiveness and capacity building.⁵⁰⁷ Information about these seminars is still available on the archived “Events” page of the U.K. Bologna website.⁵⁰⁸

The next section of the Work Programme, entitled “Discussion at BFUG,” listed thirteen topics, identified the entity that introduced the topic, and provided brief comments about the discussion.⁵⁰⁹ The penultimate section identified two projects: (1) a report on the practicalities of implementing a European register of quality

PROGRAMME 2005–2007 (2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/7101-BolognaSecretariatReport.pdf> [hereinafter 2007 SECRETARIAT REPORT].

504. 2005–2007 WORK PROGRAMME, *supra* note 503, at 1.

505. *Id.* at 2–6. The six Working Groups addressed the following subjects: (1) stocktaking; (2) elaboration and agreement on a strategy for the external dimension; (3) social dimension and data on the mobility of staff and students in participating countries; report on comparable data on mobility of staff and students as well as on the social and economic situation of students, as the basis for future stocktaking; (4) London Communiqué drafting group; (5) report on implementation and further development of overarching qualifications framework; and (6) portability of grants and loans. *Id.*

506. *Id.* at 7.

507. *Id.*

508. Bologna Secretariat, Events Archive, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=events.list&Archived=1&Month=9&Year=2007&QuickEventID=> (last visited Nov. 4, 2007) [hereinafter U.K. Bologna, Events Archive].

509. 2005–2007 WORK PROGRAMME, *supra* note 503, at 8–9. The parties discussed: (1) sharing expertise to build capacity at institutional and government level; (2) assisting the new participating countries to implement the goals of the Process; (3) the portability of grants and loans; (4) awarding professional and academic titles—using new three cycle degree system; (5) future development of EHEA post-2010—global and European competition/co-operation, as well as academic mobility; (6) the social dimension; (7) the European dimension (including joint degrees); (8) staff mobility; (9) mobility; (10) the implementation of Quality Assurance standards and guidelines; (11) the implementation of National Qualifications Frameworks; (12) the exploration of arrangements to support the Process in the future; and (13) external relations—feedback from international events. *Id.*

assurance agencies, to be prepared by ENQA in co-operation with EUA, EURASHE, and ESIB; and (2) a report on further development of the basic principles for doctoral programs to be prepared by the EUA with other interested partners.⁵¹⁰ The final section identified eighteen national and stocktaking priorities.⁵¹¹

There are several different sources one can consult to learn more about the results of this work program. One source is the U.K. Secretariat's Report, which summarizes the activity during this time period.⁵¹² The final reports of the Bologna Process working groups are also quite useful.⁵¹³ One can also consult the agenda, minutes and supporting materials for each BGUF and BFUG Board meeting; these materials are now publicly available on the U.K. Bologna website.⁵¹⁴ One can also find links to each of the official Bologna seminars, many of which have extensive conference materials.⁵¹⁵

Ambitious as the official projects were, they do not begin to convey the level of activity following the 2005 Bergen Ministerial Meeting. The "Events Archive" page of the U.K. Bologna website, for example, lists three pages of events, most of which were not official Bologna Process seminars.⁵¹⁶ The U.K. Secretariat's Report on the

510. *Id.* at 10.

511. *Id.* at 11.

512. 2007 SECRETARIAT REPORT, *supra* note 503, at 7–20.

513. See Bologna Secretariat, Document Library, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=docs.list> (last visited Nov. 4, 2007) [hereinafter U.K. Bologna, Document Library] (containing all final reports).

514. See *id.* (organizing the reports in six-month groupings); see, e.g., Bologna Secretariat, BFUG & Board January to June 2007, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=docs.list&DocCategoryID=11> (last visited Nov. 5, 2007) (including reports for the six-month period January to June 2007).

515. U.K. Bologna, Events Archive, *supra* note 508. See, e.g., Official Bologna Process Seminar, Riga Conference on Recognition, *available at* <http://www.aic.lv/bologna2007/> (last visited Nov. 4, 2007) (containing selected conference materials and conclusions).

516. See U.K. Bologna, Events Archive, *supra* note 508 (including events such as: (1) The Council of Europe Higher Education Forum—Higher Education Governance: between democratic culture, academic aspirations and market forces; (2) International Seminar on Higher Education: "The university of the 21st century: new models of independence" jointly organized by the University of Novi Sad and German Rectors' Conference; (3) the International Conference on Private Higher Education in Europe: Its Role and Functioning in the Context of the Bologna Process (organized by LKAEM and UNESCO-CEPES); (4) The Role of National Agencies in the New Generation of EU Programmes—The Hague, 18 November 2005; (5) University Lifelong Learning in the Bologna Process: the challenges and opportunities following Bergen; (6) The European University Continuing Education Network (EUCEN); (7) EURASHE HE Short Cycle Seminar—Blois, France; (8) Credit and Qualifications Framework for Wales (CQFW), Building on Experience Conference; (9) EURASHE Conference: "The Dynamics of University Colleges in the EHEA," Dubrovnik, Croatia; (10) EU & others, A researchers' labour market: Europe a pole of attraction; (11) International Interdisciplinary Conference "ECTS and Assessment in Higher Education"; (12) 'Curricular Reform Taking Shape: Learning Outcomes and Competencies in Higher Education,' Brussels, Belgium; (13) European Labour Market for Academic Graduates,

2005-2007 Work Programme summarized the activities of the E4 Group and all of the Bologna Process participating organizations.⁵¹⁷ The European Commission and the Council of Europe prepared their own reports that further summarized their activities and contributions.⁵¹⁸ The minutes of the BFUG and its Board include regular reports from the other consultative members.⁵¹⁹ There were a number of other reports,⁵²⁰ including *Eurydice's National Trends 2006/07*, ESIB's *Bologna with Student Eyes 2007*, and EUA's *Trends V*.⁵²¹ In sum, there was a tremendous amount of activity that occurred after the 2005 Bergen Ministerial Meeting and before the 2007 London Ministerial Meeting.

5. The 2007 Stocktaking

The post-Bergen activities included the 2007 Stocktaking. The 2007 Stocktaking was similar in many respects to the 2005 Stocktaking; it included color-coded scorecards that rated Bologna Process countries on a number of benchmark items, quantitative and

Maastricht University; (14) Council of Europe and others, Conference on "Making the European Higher Education Area a Reality: The Role of Students," Moscow; (15) EUA Event: European Forum for Quality Assurance "Embedding Quality Culture in Higher Education," Munich Germany; and (16) ESIB 13th European Students Convention: Students Taking Stock).

517. 2007 SECRETARIAT REPORT, *supra* note 503, at 12–13, 21–32.

518. See, e.g., European Comm'n, *From Bergen to London: The Contribution of the European Commission to the Bologna Process* (May 7, 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/FromBergentoLondonEC7May2007.doc> (providing an overview of the European Commission's contribution to the Bologna Process); European Comm'n, "Towards the EHEA: Responding to Challenges in a Globalised World" (May 10, 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/CommissionnotefortheLondonMinisterialConference.doc> (outlining how EU-level activities have contributed to advance progress on several Bologna Process issues); Council of Eur., *From Bergen to London: Contribution of the Council of Europe to the Bologna Process*, DGIV/EDU/HE (2007) 3 rev., (May 21, 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/CoEconttotheBP210507.doc> (providing an overview of the Council of Europe's contribution to the Bologna Process).

519. See *supra* note 59 and accompanying text for information about how to find the BFUG and Board minutes.

520. See, e.g., U.K. DEPARTMENT FOR EDUCATION AND SKILLS, BOLOGNA PROCESS: EXCELLENCE THROUGH ENGAGEMENT (2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/070516FINALv2.pdf> (describing activities and programs in the U.K. designed to implement the Bologna Process); see also U.K. Bologna, Document Library, *supra* note 513 (containing reports about the Bologna Process); Bologna Secretariat, General Documents, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=docs.list&DocCategoryID=2> (last visited Nov. 5, 2007) (containing the same); Bologna Secretariat, General Documents to May 2005, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=docs.list&DocCategoryID=16> (last visited Nov. 4, 2007) (containing the same).

521. See Benelux Bologna, Document Library, <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/documents/> (last visited Nov. 4, 2007) (containing Bologna Process Reports from 2007 to 2009).

qualitative analyses of that data, and conclusions and recommendations.⁵²² It was directed by an eleven-member Stocktaking Working Group and supported by the Secretariat and an expert.⁵²³ The Working Group met five times between December 2005 and April 2007.⁵²⁴ As in 2005, the data used in the 2007 Stocktaking was based primarily on the national reports prepared by each Bologna Process member but supplemented by reports from the Bologna Process participating organizations, including Eurydice's National Trends 2006/07, the *EUA's Trends V*, and the *ESIB's Bologna With Student Eyes 2007*.⁵²⁵

The benchmarks for the 2007 Stocktaking were approved by the BFUG in April 2006, which was much earlier than the 2005 benchmarks had been approved.⁵²⁶ Because of this early date, the Working Group was able to wait until after the benchmarks were approved to finalize the forms used for the 2007 national reports.⁵²⁷ This made the national reports data more responsive to the stocktaking exercise.⁵²⁸ The national report forms, together with the Stocktaking "scorecard" criteria, were sent to all participating countries in May 2006.⁵²⁹ The deadline for reports was December 15, 2006; most countries submitted their reports within one month of the deadline.⁵³⁰ The Working Group received a total of forty-eight reports: each of the 46 Bologna Process members submitted one report, with the exceptions of the United Kingdom and Belgium, both of which sent in two reports.⁵³¹ At the end of January 2007, the U.K. Bologna Secretariat sent the first drafts of the scorecards to each country.⁵³² Six countries asked to have their scores revised compared to one country in 2005.⁵³³ If a country requested a revision, it was asked to supply relevant evidence to justify the change.⁵³⁴

522. 2007 STOCKTAKING, *supra* note 39, at 8 (explaining that the working group's tasks included defining the framework to be used, developing the benchmarks for the 2007 scorecards, formulating the stocktaking framework, which integrated data from various the questions for the national reports, gathering and analyzing data, and drafting the 2007 Stocktaking).

523. *Id.* at 8.

524. *Id.* at 8. See also U.K. Bologna, Stocktaking Working Group, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=content.view&CategoryID=17&ContentID=26> (last visited Nov. 4, 2007) (containing minutes of the meetings of the Stocktaking Working Group, its reports to the BFUG, and other items).

525. 2007 STOCKTAKING, *supra* note 39, at 9.

526. *Id.*

527. *Id.*

528. *Id.*

529. *Id.*

530. *Id.* at 10.

531. *Id.*

532. *Id.*

533. *Id.*

534. *Id.* The 2007 Stocktaking reports that for almost three-quarters of the requests, the score was changed, but in those cases where the score was not changed,

The resulting 2007 Stocktaking was a lengthy document, including fifty-five pages of quantitative and qualitative analyses of the scorecard results, comparisons to the 2005 Stocktaking, and recommendations for future action and future stocktaking. The final twenty-five pages were the color-coded “scorecards” that evaluated each Bologna Process country on one dozen benchmark items.⁵³⁵

While the 2007 Stocktaking resembled the 2005 Stocktaking in some ways, it was different in other significant ways. For example, whereas the 2005 Stocktaking awarded summary grades that were color-coded, the 2007 Stocktaking used mean scores which give a more accurate picture. Most significantly, however, the 2007 Stocktaking differed in terms of the notice it gave to member states ahead of time and the degree of specificity in its benchmark items.

After analyzing the data, the 2007 Stocktaking included three overarching conclusions and a number of recommendations. The first conclusion was that there had been good progress in the Bologna Process since the 2005 Bergen Ministerial Meeting.⁵³⁶ Second, the Stocktaking found that the outlook for achieving the goals of the Bologna Process by 2010 was good, but that there were still some challenges to be faced.⁵³⁷ Third, it found that stocktaking worked well as an integral part of the Bologna Process strategy.⁵³⁸ Part IV, *infra*, discusses these conclusions and the Stocktaking’s analyses in more detail when describing the impact of the Bologna Process on European higher education.

The 2007 Stocktaking Report offered a number of recommendations for the 2009 Stocktaking, and more generally, recommendations to the Bologna Process Ministers and countries. The recommendation to the Ministers was to “[s]et clear policy goals and specific targets for the next period of the Bologna Process, especially in the areas of the third cycle, employability, recognition, lifelong learning, flexible learning paths and the social dimension.”⁵³⁹ The Stocktaking also recommended that the 2009 stocktaking take place in close collaboration with the partner organizations, including Eurydice, the EUA, and the ESIB.⁵⁴⁰ The four recommendations for countries were: (1) work towards fully implementing a national qualifications framework based on learning outcomes by 2010; (2) link the development of the qualifications framework to other Bologna action lines, including quality assurance, credit transfer and

an explanatory note was added to the text accompanying the country scorecard in the report. *Id.*

535. *Id.* at 56–80.

536. *Id.* at 1.

537. *Id.*

538. *Id.*

539. *Id.* at 4.

540. *Id.*

accumulation systems, lifelong learning, flexible learning paths, and the social dimension; (3) ensure that progress is promoted across all action lines, including the more challenging aspects that are not easily and immediately attainable; and (4) make formal links between the Bologna Process and the ENIC/NARIC network to undertake further work on developing and implementing national action plans for recognition.⁵⁴¹

F. *The 2007 London Communiqué and Aftermath*

1. The London Communiqué

After the preliminary work described above, the Bologna Process Ministers met in London in May 2007 for their Ministerial Conference.⁵⁴² The London Communiqué memorializes the results of their two-day program.⁵⁴³ The London Communiqué is a seven-page document, divided into four sections: “Introduction,” “Progress towards the EHEA,” “Priorities for 2009,” and “Looking Forward to 2010 and Beyond.”⁵⁴⁴ In terms of “action” items, the London Communiqué welcomed Montenegro as a new member of the Bologna Process.⁵⁴⁵ It also “welcomed” the establishment of a Register of European Higher Education Quality Assurance Agencies by the E4 Group⁵⁴⁶ based on their proposed operational model and asked them to report back regularly and to ensure that the new register was

541. *Id.*

542. See Bologna Secretariat, Bologna 5th Ministerial Conference—London, <http://www.dfes.gov.uk/londonbologna/index.cfm?fuseaction=content.view&CategoryID=23> (last visited Nov. 4, 2007) (containing materials on the 5th Ministerial Conference, including lists of delegates, summaries, and feedback). Although this was the sixth time ministers met, it was called the Fifth Ministerial Conference. *Id.*

543. Bologna Secretariat, *Bologna Process: Programme for Conference of Ministers, London* (May 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/Londonprogramme-updated9May07.doc>. A number of the speeches and presentations are available on this website. Bologna Secretariat, Bologna 5th Ministerial Conference—London, *supra* note 542. See also *Bologna Ministerial Conference, Feedback from Panel Sessions* (May 17–18, 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/LondonConferencePanelSessionOutcome.pdf> (summarizing panel sessions and emerging themes).

544. London Communiqué, *supra* note 17.

545. *Id.* ¶ 1.2. See also Minutes of the Bologna Follow-Up Group Meeting, BFUG9 Minutes, October 12–13, 2006, available at http://www.dfes.gov.uk/londonbologna/uploads/documents/BFUG9_Helsinki_Meeting_note_final_website_copy.doc (noting that after the split of Serbia and Montenegro, the BFUG had agreed to allow Montenegro to continue to take part in the BFUG as an observer until reestablished as a full member at the London ministerial meeting).

546. The E4 group consists of the EUA, ENQA, EURAHSE, and ESU (formerly known as ESIB). London Communiqué, *supra* note 17, ¶ 2.13.

evaluated externally after two years of operation.⁵⁴⁷ The Ministers also adopted the strategy entitled “The European Education Area in a Global Setting” and agreed to take forward work in the core policy areas.⁵⁴⁸

The London Communiqué arguably is the most content-laden of the existing Declarations and Communiqués. It also reflects the increasingly diverse perspectives of the Bologna Process participating organizations and stakeholders, as well as the need of the Ministers to respond to these differing interests and concerns. For example, the “Introduction” contains five paragraphs. In my view, the most significant paragraph in this section is the fourth paragraph, which acknowledges various stakeholders’ interests and concerns:

We reaffirm our commitment to increasing the compatibility and comparability of our higher education systems, whilst at the same time respecting their diversity. We recognise the important influence higher education institutions (HEIs) exert on developing our societies, based on their traditions as centres of learning, research, creativity and knowledge transfer as well as their key role in defining and transmitting the values on which our societies are built. Our aim is to ensure that our HEIs have the necessary resources to continue to fulfil their full range of purposes. Those purposes include: preparing students for life as active citizens in a democratic society; preparing students for their future careers and enabling their personal development; creating and maintaining a broad, advanced knowledge base; and stimulating research and innovation.⁵⁴⁹

The second section of the London Communiqué, entitled “Progress Towards the EHEA,” was divided into nine subsections, many of which reflect the ten Bologna Process “action lines.”⁵⁵⁰ The first subsection addressed “Mobility” which it described as “one of the core elements of the Bologna Process.”⁵⁵¹ The section noted that some progress had been made, but also noted that challenges remained and identified a number of specific obstacles, including

547. *Id.* ¶ 2.14. The proposed operational model is found in ENQA, REPORT ON A EUROPEAN REGISTER OF QUALITY ASSURANCE AGENCIES, *supra* note 28.

548. London Communiqué, *supra* note 17, ¶ 2.20.

549. *Id.* ¶ 1.4. The other paragraphs in this section stated the Ministers had met, welcomed Montenegro, reaffirmed the commitment to the EHEA, observed that it was a significant task, and expressed appreciation to all contributing groups. *Id.* ¶¶ 1.1–1.5. The fifth paragraph provided a summary of the conclusions to be drawn from the fourth paragraph quoted in the text:

We therefore underline the importance of strong institutions, which are diverse, adequately funded, autonomous and accountable. The principles of nondiscrimination and equitable access should be respected and promoted throughout the EHEA. We commit to upholding these principles and to ensuring that neither students nor staff suffer discrimination of any kind.

Id. ¶ 1.5.

550. *Id.* ¶¶ 2.1–2.20.

551. *Id.* ¶ 2.2.

problems with visas, problems with residence and work permits, insufficient financial incentives, inflexible pension arrangements, the lack of joint programs and flexible curricula, and the necessity of encouraging institutions to take greater responsibility for student and staff mobility and of having the mobility more equitably balanced across EHEA countries.⁵⁵² The Ministers agreed to work within their governments and at a national level for progress on these issues.

With respect to degree structure, the Ministers noted the good progress that had been made towards the goal of having a three-cycle degree system.⁵⁵³ The Ministers noted the importance of having curricular reform that would lead to qualifications better suited to the needs of the labor market and further study.⁵⁵⁴ They asked that efforts be concentrated on removing barriers to access between cycles and on implementing the ECTS properly.⁵⁵⁵ They also emphasized the importance of improving graduate employability and noted the need for more data collection.⁵⁵⁶

In the “Recognition” section, the Ministers reaffirmed their commitment to European and global recognition of higher-education qualifications, periods of study, prior learning, and non-formal and informal learning.⁵⁵⁷ After reporting the overall progress among members regarding ratification of the Lisbon Recognition Convention and implementation of the ECTS and diploma supplements, they requested that the remaining Bologna Process members prioritize the ratification of the Lisbon Recognition Convention and encouraged more coherent national and institutional approaches to recognition issues.⁵⁵⁸ In order to accomplish the latter objective, the Ministers asked the BFUG to have the ENIC/NARIC networks analyze the national action plans and promote good practices.⁵⁵⁹

The “Qualifications Framework” section of the London Communiqué reaffirmed that the *EHEA Qualifications Framework*, which was adopted in 2005 in Bergen, was a central element of the promotion of European Education in higher education, implicitly rejecting the need to revise it.⁵⁶⁰ The Ministers noted that some

552. *Id.* ¶ 2.3.

553. *Id.* ¶ 2.4.

554. *Id.*

555. *Id.*

556. *Id.*

557. *Id.* ¶ 2.5.

558. *Id.* ¶ 2.6.

559. *Id.*

560. *Id.* ¶ 2.10. The Bergen Communiqué had asked the BFUG to report on whether any amendments to the EHEA Qualifications Framework were needed. Bergen Communiqué, *supra* note 17. The Working Group concluded that the existing framework had proved sufficient and need not be revised, but it had several recommendations. BOLOGNA WORKING GROUP ON QUALIFICATIONS FRAMEWORKS, NATIONAL QUALIFICATIONS FRAMEWORKS DEVELOPMENT AND CERTIFICATION 35 (May 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/WGQF->

progress had been made in this area, but called for “much more effort.”⁵⁶¹ The Ministers committed themselves to “fully implementing such national qualifications frameworks, certified against the overarching Framework for Qualifications of the EHEA, by 2010.”⁵⁶² Because of the challenging nature of this task, the Ministers called upon the Council of Europe to support this endeavor.⁵⁶³ They also reaffirmed their belief that qualifications frameworks would improve recognition of qualifications and prior learning, and stated that the frameworks were important instruments to help achieve comparability and transparency, facilitate movement, and help higher-education institutions develop modules and study programs based on learning outcomes and credits.⁵⁶⁴

The “Lifelong Learning” section of the London Communiqué observed that while the majority of countries have some elements of flexible learning, most have not developed a systemic approach to this topic.⁵⁶⁵ The Ministers asked the BFUG to share good practices and to work toward a common understanding. It invited the BFUG to work with ENIC/NARIC to develop proposals for improving the recognition of prior learning.⁵⁶⁶

The “Quality Assurance” section began by noting that the 2005 Standards and Guidelines for Quality Assurance in the EHEA⁵⁶⁷ had been a powerful driver of change, with some countries starting to implement them and some having made substantial progress.⁵⁶⁸ The Ministers noted that student involvement had increased, but stressed that more involvement was necessary.⁵⁶⁹ The London Communiqué noted that higher education institutions had the main responsibility and that they should continue to develop their systems of quality assurance.⁵⁷⁰ This section also commended the E4 Group for organizing the first European Quality Assurance Forum and responding to the Ministers’ request to develop the practicalities of setting up a Register of European Higher Education Quality Assurance Agencies.⁵⁷¹

report-final2.pdf [hereinafter 2007 NATIONAL FRAMEWORKS WORKING GROUP FINAL REPORT].

561. London Communiqué, *supra* note 17, ¶ 2.8.

562. *Id.*

563. *Id.* See also NATIONAL FRAMEWORKS WORKING GROUP FINAL REPORT, *supra* note 560.

564. London Communiqué, *supra* note 17, ¶ 2.7.

565. *Id.* ¶ 2.11.

566. *Id.*

567. Standards and Guidelines for Quality Assurance, *supra* note 24.

568. London Communiqué, *supra* note 17, ¶ 2.12.

569. *Id.*

570. *Id.*

571. *Id.* ¶¶ 2.13–2.14.

The “Doctoral Candidates” section called for closer alignment of the EHEA and the European Research Area, noting the advantages of linking doctoral programs to the qualifications framework while avoiding overregulation.⁵⁷² It encouraged institutions to reinforce their efforts to embed doctoral programs into institutional strategies and develop appropriate career paths and opportunities for doctoral candidates and researchers.⁵⁷³ It called upon the EUA to facilitate information exchange on these issues and committed governments to a greater exchange of information on these issues.⁵⁷⁴

The “Social Dimension” section began by noting that higher education should play a strong role in fostering social cohesion, reducing inequalities and raising the level of knowledge, skills, and competences in society.⁵⁷⁵ It reaffirmed the commitment to diversity in the higher-education student population and the elimination of economic and social obstacles vis-à-vis a students’ ability to complete their educations.⁵⁷⁶ The Ministers agreed to continue efforts to provide adequate student services, create more flexible learning pathways into and within higher education, and widen participation at all levels on the basis of equal opportunity.⁵⁷⁷

The “European Higher Education Area in a global context” was the title of the final subsection of the “Progress Towards the EHEA” section of the London Communiqué. In the 2005 Bergen Communiqué, the Ministers had called upon the BFUG to develop a strategy for the external dimension of the Bologna Process.⁵⁷⁸ The BFUG responded with a lengthy paper on this topic.⁵⁷⁹ In this section of the London Communiqué, the Ministers endorsed this BFUG paper and adopted the strategy entitled “The European Higher

572. *Id.* ¶ 2.15.

573. *Id.* ¶¶ 2.16–2.17.

574. *Id.* ¶ 2.17.

575. *Id.* ¶ 2.18.

576. *Id.*

577. *Id.*

578. Bergen Communiqué, *supra* note 17, at 5.

579. See BFUG, *European Higher Education in a Global Setting: A Strategy for the External Dimension of the Bologna Process*, available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/ExternalDimension-finalforconference.doc> (last visited Nov. 5, 2007) (setting forth the strategy); see also PAVEL ZGAGA, LOOKING OUT: THE BOLOGNA PROCESS IN A GLOBAL SETTING (2006), available at http://www.dfes.gov.uk/londonbologna/uploads/documents/0612_Bologna_Global_final_report.pdf (concerning the elaboration of a strategy for the external dimension as called for in the Bergen Communiqué); European Commission, *Towards the EHEA: Responding to Challenges in a Globalised World* (May 10, 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/CommissionnotefortheLondonMinisterialConference.doc> (outlining how EU-level activities have advanced the progress of Bologna Process strategies); European Commission, *Bologna Goes Global: Commissioner Figel Puts Higher Education Reform in a Global Context* (May 10, 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/CommissionpressreleaseLonMinConf.pdf> (noting the adoption of the strategy).

Education Area in a Global Setting.”⁵⁸⁰ The Ministers agreed to work on five core policy areas of improving information about and promoting the attractiveness of the EHEA, strengthening cooperation based on partnerships, intensifying policy dialogues, and improving recognition.⁵⁸¹ The Ministers also noted that their work ought to be viewed in relation to the 2005 OECD/UNESCO Guidelines for Quality Provision in Cross-Border Higher Education.⁵⁸²

After reviewing the progress that had been made from 2005-2007, the Ministers identified their priorities for the 2009 Ministerial Conference. This section of the London Communiqué began by noting their commitment to the ongoing priorities of the three-cycle degree system, quality assurance, and recognition of degrees and study periods.⁵⁸³ In addition to these older priorities, the Ministers identified six areas of priority for 2009: (1) mobility, (2) social dimension, (3) data collection, (4) employability, (5) the EHEA in a global context, and (6) stocktaking.⁵⁸⁴

The Ministers called for a number of very specific actions, including national reports on steps taken to promote the mobility of students and staff, as well as national strategies and policies for the social dimension, including action plans to evaluate their effectiveness.⁵⁸⁵ The Ministers agreed to set up a network of national experts to share information on mobility and to work with governments to ensure that employment structures within the public service are fully compatible with the new degree system.⁵⁸⁶ The Ministers also called on other entities to take action; they asked the European Commission to develop comparable and reliable data to measure mobility progress, which would touch on issues of participative equity and employability for graduates, and to submit a report for the 2009 Conference.⁵⁸⁷ They called upon higher education institutions to develop partnerships with employers.⁵⁸⁸ They called upon the higher education institutions and ENIC/NARIC to assess qualifications from the other part of the world with the same open mind they would use to assess European qualifications.⁵⁸⁹ Finally, the Ministers gave the BFUG several tasks for 2009; they asked the Group to consider in detail how to improve employability for all three cycles, and to report back on developments at a European, national

580. London Communiqué, *supra* note 17, ¶ 2.20.

581. *Id.*

582. *Id.* For a discussion of the UNESCO Guidelines, see *UNESCO Guidelines*, *supra* note 174.

583. London Communiqué, *supra* note 17, ¶ 3.1.

584. *Id.* ¶¶ 3.1–3.7.

585. *Id.* ¶¶ 3.2–3.3.

586. *Id.* ¶ 3.4.

587. *Id.*

588. *Id.* ¶ 3.5.

589. *Id.* ¶ 3.6.

and institutional level with respect to the EHEA in a global context (including improvements to the information available on the Bologna Secretariat website and building EUA's Bologna Handbook and recognition efforts).⁵⁹⁰ The Ministers also asked the BFUG to continue stocktaking and have a report in time for the 2009 Conference; the Ministers identified a number of factors they wanted the BFUG to include in the 2009 stocktaking.⁵⁹¹

The fourth and final section of the London Communiqué was entitled "Looking Forward to 2010 and Beyond." In this section, the Ministers expressed their commitment to the EHEA and called upon the BFUG to consider how the EHEA might develop beyond 2010 and report back at the 2009 Ministerial meeting.⁵⁹² The Ministers asked the BFUG to include proposals for appropriate support structures and decide upon the nature, content, and place of any ministerial meeting to be held in 2010.⁵⁹³ They also invited the BFUG to consider preparing a report for 2010 that would include an independent assessment of the progress of the Bologna Process, which would be done in partnership with the consultative members.⁵⁹⁴

2. Post-London Follow-up Work

After the 2007 London Ministerial Conference and in anticipation of the 2009 Ministerial Conference to be held in Belgium at the universities of Leuven and Louvain-la-Neuve, the Benelux countries (Belgium, the Netherlands, and Luxembourg) assumed the role of Bologna Secretariat.⁵⁹⁵ The Benelux Secretariat established a new webpage that focused primarily on the post-London developments and included links to the earlier websites.⁵⁹⁶ One of the links on the website is to the WORK PROGRAMME—2007-2009.⁵⁹⁷

590. *Id.* ¶¶ 3.6–3.7.

591. *See id.* ¶ 3.7.

We expect further development of the qualitative analysis in stocktaking, particularly in relation to mobility, the Bologna Process in a global context and the social dimension. The fields covered by stocktaking should continue to include the degree system and employability of graduates, recognition of degrees and study periods and implementation of all aspects of quality assurance in line with the ESG. With a view to the development of more student-centred, outcome-based learning, the next exercise should also address in an integrated way national qualifications frameworks, learning outcomes and credits, lifelong learning, and the recognition of prior learning.

Id.

592. *Id.* ¶¶ 4.1–4.6.

593. *Id.*

594. *Id.* ¶ 4.4.

595. Benelux Bologna Website, *supra* note 41.

596. *Id.*

597. *Id.*

At the time this Article was written, the concrete outlines of the 2007-2009 work program had not yet been decided; at that time, the Secretariat webpage specified the general parameters of the work program:

The Bologna work programme will be coordinated by the Bologna Follow-up Group following the orientations of the London Communiqué

Several activities will be undertaken: analytic reports prepared by specific working groups, evaluations, seminars, conferences...

Priority themes of the 2007-2009 agenda include:

- Stocktaking on the overall implementation of the Bologna goals, including related issues to the social dimension of the European Higher Education Area, mobility, employability, lifelong learning and recognition.
- Dialogue with the world academic community on the Bologna process
- Preparation of the evaluation of the newly established European Register of Quality Assurance Agencies
- Future orientations for furthering the process after 2010.⁵⁹⁸

At its meeting on October 2-3, 2007, after this article was written, the BFUG adopted a work programme for the period leading up to the 2009 Ministerial Conference; this Work Programme was updated thereafter.⁵⁹⁹ These themes demonstrate that the BFUG and Bologna Process countries continue to be actively engaged in Bologna Process issues and will have an ambitious agenda as they try to complete the EHEA by 2010. In September 2007, there already were a number of conferences listed on the website calendar, including the Second European Quality Assurance Forum, an October 2007 conference addressing questions of higher education institutional reforms, and a Council of Europe forum on the

598. See Benelux Bologna, Bologna Work Programme 2007–2009, <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/workprogramme/> (noting that the Bologna Work Programme 2007–2009 was adopted at the October 2–3, 2007 meeting of the BFUG in Lisbon) (archived page on file with author).

599. See Benelux Bologna, Bologna Work Programme 2007-2009 (Consolidated Version of March 2, 2008), available at http://www.ond.vlaanderen.be/hogeronderwijs/bologna/documents/Bologna_work_programme_2007-2009_030308.pdf. Because of the publication schedule, the details of the twenty-four page Work Programme are beyond the scope of this article. The general structure of this document is similar, but not identical to the Work Programme prepared for the London meeting. The 2007-2009 Work Programme includes an introductory section and sections on: mobility; degree structure; employability; recognition; qualifications framework; lifelong learning; quality assurance; third cycle/doctoral candidates; the social dimension; the global dimension; data collection; stocktaking; and a final section entitled “beyond 2010.” Each of these sections listed, among other things, the relevant language in the London Communiqué, the entity responsible for the issue, proposed meeting dates, seminars, and other relevant information. This document also included an appendix that listed the dates of the BFUG and BFUG Board meetings planned for 2007-2009.

qualifications framework.⁶⁰⁰ In light of the action called for in the London Communiqué, one can expect many more events and studies in the next two years leading up to the 2009 Ministerial Conference.

3. The 2009 Stocktaking Exercise

The London Communiqué called for a third stocktaking for the 2009 meeting and asked that it “address in an integrated way national qualifications frameworks, learning outcomes and credits, lifelong learning, and the recognition of prior learning.”⁶⁰¹ The 2007 Stocktaking report noted that the quantitative aspect of stocktaking works well when there are clear policy goals and specific targets that can be translated into a scorecard that enables countries to measure their progress against these goals and targets.⁶⁰² Thus, one can expect to see a similar methodology used for the 2009 Stocktaking. At the time this Article was written, there was very little information posted about the 2009 Stocktaking on the Benelux Bologna Process website. But it is clear that the 2009 Stocktaking Report and its benchmarks, like its predecessors, will play a very important role in the Bologna Process.

G. Summary

Part III has laid out the parameters and scope of the Bologna Process and the European Higher Education Area (established in the Sorbonne, Bologna, Prague, Berlin, Bergen, and London Ministerial Meetings); the commitments that have been adopted in ministerial declarations and communiqués; the additional documents that have been adopted (i.e., the *Qualifications Framework* and *Standards and Guidelines for Quality Assessment* in the EHEA); and the significant work that occurs between ministerial meetings with respect to the ten action lines. The next Part examines whether these events have had an impact on higher education in Europe.

IV. THE IMPACT OF THE BOLOGNA PROCESS ON EUROPEAN HIGHER EDUCATION

The Bologna Process Ministers have committed themselves to an ambitious program of change. Commitments, however, do not always translate into actions. This Part addresses the issue of whether the Bologna Process has had an impact on higher education in Europe. It

600. Benelux Bologna, Calendar, available at <http://www.ond.vlaanderen.be/hogeronderwijs/bologna/calendar/>.

601. London Communiqué, *supra* note 17, ¶ 3.7.

602. 2007 STOCKTAKING, *supra* note 39, at 52.

begins by presenting the data contained in the 2007 Stocktaking. The stocktaking benchmarks provide concrete and quantifiable details about the type of impact the Bologna Process has had. Part IV continues by examining other sources in order to evaluate the impact of the Bologna Process. It concludes that the Bologna Process has had a significant impact on European higher education.

A. *The Scorecard Data in the 2007 Stocktaking*

The 2007 Stocktaking included a significant amount of quantitative information about Bologna Process members' progress in achieving the benchmarks; this data was presented in the color-coded scorecards described earlier and the summaries of that scorecard data.

The quantitative data in the 2007 Stocktaking indicates that the Bologna Process has had a significant impact on higher education in Europe and that changes continue to be made. Although most of the 2007 benchmarks were either new or more stringent than the 2005 benchmarks, with one exception, the Bologna Process countries received more "green" scores in 2007 than they did in 2005.⁶⁰³ Appendix 2 presents the quantitative information in table format; this Subpart presents the data in narrative form.

In addition to collating the 2007 scorecard results, the quantitative section of the 2007 Stocktaking provided comparative data. For those items that had been benchmarked in 2005, the 2007 Stocktaking reported on the progress that had been made since the last stocktaking and provided charts that compared the 2005 and 2007 percentages in each color category. For example, for the first benchmarked item, which addressed implementation of the first and second degree cycle, the 2007 Stocktaking reported that even though the 2007 benchmark was more demanding, the 2007 results were substantially better than they had been in 2005.⁶⁰⁴ Almost half of the countries had the vast majority of students already studying in the two-cycle bachelor-master degree system and another eleven countries had at least 60 percent of students enrolled in the two-cycle degree system.⁶⁰⁵ The Stocktaking pointed out that most countries had introduced the cycles gradually; there was steady progress and only four countries had completed legislation but not yet implemented it. This section concluded by predicting that the first benchmark would be fully implemented by 2010.⁶⁰⁶

603. *Id.* at 2.

604. *See id.* at 13 (showing seventeen green, six light green, seven yellow, ten orange, and three red countries for this benchmark).

605. *Id.*

606. *Id.*

The second benchmark addressed access to the next degree cycle. The 2007 Stocktaking concluded that there had been good progress since 2005: even though the benchmark was revised and more difficult to satisfy, the results were better in 2007 than they had been in 2005.⁶⁰⁷ More than four-fifths of the countries had reported that there were no barriers to access from one cycle to the next cycle.⁶⁰⁸

Although the third benchmark was new in 2007, the 2007 Stocktaking noted that progress had been made since 2005 with respect to implementation of a national qualifications framework.⁶⁰⁹ It pointed out that during the 2005 Bergen Ministerial Conference, the Ministers asked countries to begin working on their national qualification frameworks by 2007.⁶¹⁰ All but one country had done so, and almost all countries had instituted a process that engaged all relevant stakeholders.⁶¹¹ Despite this positive report, the 2007 Stocktaking expressed concern about the timetable and worried that the impending deadline of 2010 might rush the national process.⁶¹² It therefore recommended that countries consider the kinds of collegial support that could be provided and suggested several possibilities, including continuing the regional workshops started in 2005-2007, having an appropriate international organization or network facilitate meetings, and creating an expert pool, as suggested by the Qualifications Frameworks Working Group.⁶¹³

The fourth benchmark, like the third benchmark, was a new item in 2007. Nevertheless, the 2007 Stocktaking found that there had been progress: almost one-third of countries had a fully operational national quality assurance system that was consistent with the *Standards and Guidelines for Quality Assurance in the EHEA*, and the remaining countries had begun work on this issue.⁶¹⁴ Despite this progress, the 2007 Stocktaking concluded that there was still a lot of work to be done and that there was a need to provide more support for internal quality assurance that would “embed” a quality culture in higher education institutions.⁶¹⁵ The 2007 Stocktaking therefore recommended that the 2009 Stocktaking ask

607. The 2005 Stocktaking showed nineteen green compared to thirty-seven in 2007, twelve light green, three yellow, seven orange, and two red countries for this benchmark. *Id.* at 15. The 2007 benchmark was more demanding than the 2005 benchmark, *inter alia*, because it measured access to the third cycle and required access to several second cycle programmes in order to earn a green score. *Id.*

608. *Id.* at 14.

609. *Id.* at 16.

610. *Id.*

611. *Id.*

612. *Id.*

613. *Id.* at 17.

614. *Id.* at 19.

615. *Id.*

for more detailed information about the operation of internal quality assurance processes.⁶¹⁶

The fifth benchmark measured implementation of external quality assurance systems. The 2007 Stocktaking reported very good progress since 2005, even though the benchmark was more demanding.⁶¹⁷ The Stocktaking noted that there had been significant progress in establishing systems for external evaluation, with many more countries in the combined green-light green categories.⁶¹⁸ The Stocktaking concluded that the biggest problem was that many countries had not yet established procedures for external (peer) review of the quality assurance agency.⁶¹⁹ It suggested that ENQA might be able to provide information that would help countries exchange information and collaborate further.⁶²⁰

The sixth benchmark measured the level of student participation in quality assurance systems. This benchmark was the same as 2005 and showed the greatest amount of progress since 2005: every country had some level of student participation in quality assurance and more than two-thirds had students participating in at least three of the four levels, which represented a significant increase since 2005.⁶²¹

The seventh benchmark, which measured the level of international participation in quality assurance, was more demanding than the 2005 benchmark because it added evaluation of quality assurance agencies to the requirement for green.⁶²² As a result, the 2007 Stocktaking results looked worse than the 2005 results because there are more red countries (4 vs. 0) and fewer green and light green countries (28 vs. 26).⁶²³ This section of the Stocktaking therefore noted that there was “still some way to go on international participation in quality assurance” and that “external review of quality assurance agencies is still at an early stage of development in most countries, so there cannot be international participation in this area yet.”⁶²⁴ The Stocktaking reviewed some of the current barriers to the use of foreign experts, including legislative

616. *Id.*

617. *Id.* at 22.

618. *Id.* at 23. There were forty-one in 2007 compared to twenty-six in 2005. *Id.*

619. *Id.* at 22.

620. *Id.*

621. *See id.* at 24–25 (showing thirty-three green and light green in 2007 compared to fifteen in 2005). The Stocktaking observed that its conclusion was backed up by the EUA Trends V report and the ESIB, Bologna Through Student Eyes report. *Id.* at 24.

622. *Id.* at 27.

623. *Id.*

624. *Id.* at 26.

restrictions and language issues.⁶²⁵ The Stocktaking indicated that initiatives by ENQA, EUA, and the Council of Europe might be used to promote international cooperation, which in turn might increase international participation as a way of guaranteeing the international acceptance, openness, and transparency of quality assurance processes in all countries.⁶²⁶

The eighth benchmark measured implementation of the diploma supplement. The 2007 Stocktaking concluded that good progress had been made since 2005, even though the criteria for yellow and orange were more demanding.⁶²⁷ It noted that more than half the countries had fully implemented the Diploma Supplement and that a number of other countries made it available to all students on request.⁶²⁸ However, it pointed out that in one-third of countries, the diploma supplement was still not available to all students in all programs.⁶²⁹

The ninth benchmark measured national implementation of the principles of the Lisbon Recognition Convention. The Stocktaking observed that because the benchmark had changed, there were more countries in the red in 2007 than there had been in 2005.⁶³⁰ In 2005, it had been possible for a country to score yellow without having ratified the Lisbon Convention; in 2007, every country that had not ratified it received a score of red.⁶³¹ The Stocktaking noted other problems, including the fact that the terminology used for national recognition procedures was often confused, perhaps masking underlying differences.⁶³² Several countries also reported that their higher education institutions needed more information on Convention principles and more training on how to apply these principles.⁶³³ The Stocktaking expressed some concern that countries that appeared to comply with the letter of the Convention might not be complying with the spirit of the Convention principles.⁶³⁴ The 2007 Stocktaking therefore recommended close examination of national and institutional use of recognition procedures and urged everyone to consider how recognition practices could be made more coherent across the EHEA. It also concluded that it would be useful to investigate how well countries had transposed Convention principles

625. *Id.* The Stocktaking explained that language issues arise either because the country's language is not widely spoken or because the use of English or another common language greatly adds to the cost and inconvenience. *Id.*

626. *Id.*

627. *Id.* at 30. In 2007, it was no longer sufficient to have plans to introduce the diploma supplement or a pilot project. *Id.*

628. *Id.* at 29.

629. *Id.*

630. *Id.* at 32.

631. *Id.*

632. *Id.*

633. *Id.*

634. *Id.*

into national laws and consider the ways in which recognition and quality assurance are linked to each other.⁶³⁵

The tenth benchmark measured implementation of the ECTS. According to the report, more than half of Bologna Process members used the ECTS for credit transfer and accumulation and another quarter either used it for seventy-five percent of their programs, or used an ECTS-compatible system for all of their programs.⁶³⁶ Because the 2007 criteria for this benchmark were more demanding,⁶³⁷ there was only a small increase over the 2005 scores.⁶³⁸ The 2007 Stocktaking also pointed out that very few countries linked credits with learning outcomes.⁶³⁹ The report recommended a greater emphasis on the links between learning outcomes, qualifications frameworks, and credit transfer and accumulation.⁶⁴⁰

The eleventh benchmark was new for 2007 and measured recognition of prior learning.⁶⁴¹ Approximately one-third of countries achieved the highest score possible, which indicates that most countries had begun developing procedures for recognition.⁶⁴² The Stocktaking recommended greater awareness of this issue and concluded that it might be too early to apply benchmarks to this area.⁶⁴³

The twelfth and final benchmark measured establishment and recognition of joint degrees; this too was a new benchmark for 2007.⁶⁴⁴ The Stocktaking reported that most countries' legislation either explicitly encouraged or did not prevent joint degrees awarded by institutions from different countries.⁶⁴⁵ The Stocktaking noted that a number of countries had reviewed and changed their legislation in order to allow joint degrees and cited this as an example of the Bologna Process' effect on national policy and practice.⁶⁴⁶ It also pointed out the different ways in which Eurydice had measured this item.⁶⁴⁷

635. *Id.*

636. *Id.* at 33.

637. *See id.* at 33–34 (noting, for example, that the 2005 benchmark allowed a light green score if ECTS was used in a limited number of programs, whereas the 2007 benchmark required ECTS to be used in at least seventy-five percent of first and second degree programs or a fully compatible credit transfer and accumulation system).

638. *See id.* at 34 (showing thirty-six green and light green scores in 2007 compared to thirty-two in 2005).

639. *Id.* at 33.

640. *Id.* at 34.

641. *Id.* at 35.

642. *Id.* at 36.

643. *Id.*

644. *Id.* at 37.

645. *Id.*

646. *Id.*

647. *Id.*

B. Additional Items Subject to Stocktaking

In addition to the items that were benchmarked on each country's scorecard (summarized in the prior section and in Appendix 2), the 2007 Stocktaking provided narrative rather than numeric evaluations of a number of other items that the Stocktaking had been asked to address. This section of the 2007 Stocktaking shows that the Bologna Process has had a strong impact on European higher education, even with respect to those items that were only recently added to the Bologna Process or the stocktaking exercise.

One set of findings addressed the action lines that relate to doctoral programs.⁶⁴⁸ The 2007 Stocktaking reported that there had been growth in the number of third-cycle doctoral programs, which indicated both that several countries had adopted new legislation and that it had recently become a central issue (as other countries had reported).⁶⁴⁹ This section reported that in most countries, the normal length of time for a doctorate was three to four years of full-time study, but the average time was often longer.⁶⁵⁰ The Stocktaking reported that in a large number of countries, the doctoral programs included courses that vary from half a year (thirty ECTS credits) to 1.5 years.⁶⁵¹ Most countries had supervisory activities for doctoral students, often determined by the higher education institutions.⁶⁵² The most common assessment procedure for doctoral programs was periodic reporting, although some countries required doctoral candidates to sit for exams.⁶⁵³ Many countries had already included, or proposed to include, doctoral studies in their qualifications framework.⁶⁵⁴ Some countries had included interdisciplinary training and development of transferable skills in their doctoral studies or planned to do so in the future.⁶⁵⁵ The Stocktaking found that there were a range of approaches to the use of credit transfer and accumulation in doctoral programs, with some countries using credit points across all doctoral studies, some using them for taught courses only, and others not using them at all.⁶⁵⁶ Finally, on the issue of doctoral candidates and graduates taking up research

648. The tenth action line was "Doctoral studies and the synergy between the EHEA and the European Research Area (ERA)." Bologna Process Action Lines, *supra* note 30. In the 2005 Bergen Communiqué, the Bologna Process Ministers had expanded their objectives to include a three-cycle degree program (i.e., the doctoral degree). Bergen Communiqué, *supra* note 17.

649. 2007 STOCKTAKING, *supra* note 39, at 38.

650. *Id.*

651. *Id.*

652. *Id.*

653. *Id.*

654. *Id.*

655. *Id.*

656. *Id.*

careers, the Stocktaking found that in some countries, the main concern was the fact that only a small number of students were enrolled in doctoral programs.⁶⁵⁷ Thus, the first step was to increase these numbers.⁶⁵⁸ The Stocktaking listed a number of steps that countries had taken to attract doctoral candidates to research careers.⁶⁵⁹

The “Additional Stocktaking” section also addressed the topic of the employability of graduates with bachelor qualifications.⁶⁶⁰ It concluded that the picture was “not very clear” and that it probably would be worthwhile to share information about “good practices.”⁶⁶¹ The Stocktaking found that because graduate employability is a key issue of the Bologna Process, there was a need for more systematic data and that this issue should be the focus of a more detailed stocktaking.⁶⁶²

When addressing the issue of flexible learning paths in higher education, the Stocktaking found that although developments were still at an early stage and results were not easily quantifiable (and might remain unquantifiable for some time), clear policy goals should nevertheless be set.⁶⁶³ The Stocktaking found a need to raise awareness regarding the role of higher education in advancing the social and economic cohesion that can come from providing better access to individuals from traditionally under-represented groups.⁶⁶⁴

On the issue of higher education and research, the 2007 Stocktaking observed that because of the wide variation in responses, it was difficult to obtain a clear picture of the relationship between higher education and research, and whether that relationship had changed as a result of the Bologna Process.⁶⁶⁵ The Stocktaking concluded that there was a need to formulate clear policy goals and to measure progress against these goals in order to have further development.⁶⁶⁶ It pointed to a number of steps countries had taken

657. *Id.* at 43.

658. *Id.*

659. *See id.* at 42 (including creating or supporting post-doctoral positions, providing grants to post-doctoral researchers, raising salaries, increased funding for research, providing information on career opportunities in research, measures related to taxation, promoting mobility of doctoral students and internationalization of doctoral studies, and finding research posts for young researchers in the private sector).

660. This topic is related to the action lines involving the switch to a two-degree cycle, the action line about the attractiveness of the EHEA, and the overarching social dimension. *See supra* notes 30–31 and accompanying text for these action lines.

661. 2007 STOCKTAKING, *supra* note 39, at 40.

662. *Id.*

663. *Id.* at 41.

664. *Id.*

665. *Id.* at 42.

666. *Id.*

to improve the synergy between higher education and other research sectors.⁶⁶⁷

The Stocktaking next turned to the issue of the benefits of international cooperation and partnership within the Bologna Process. It found that the Bologna Process had promoted increased involvement of students and staff in the governance of higher education institutions and had promoted better cooperation between business and social partners and the higher education community.⁶⁶⁸ It also found that such developments should, in the long run, help countries achieve their EHEA goals of increasing employability of graduates, achieving more flexibility in higher education, establishing a quality enhancement culture, and having an outcome-based curriculum that would lead to relevant qualifications.⁶⁶⁹

The next section of the 2007 Stocktaking identified the main issues that had arisen with respect to recognition. It pointed out that the procedures for assessment of foreign qualifications were very different in different countries and that because the terminology differed, the data was often confusing.⁶⁷⁰ The Stocktaking recommended additional analysis by the ENIC/NARIC networks with a view to achieving coherence in the treatment of foreign degrees and study periods across the EHEA.⁶⁷¹ The Stocktaking identified a number of good practices that might be further studied and disseminated.⁶⁷² The final section in this part of the Stocktaking identified thirteen “challenges” for the future.⁶⁷³

667. *Id.* at 41–42. The steps mentioned include: adopting national strategy and policy measures to strengthen research cooperation between higher education institutions and research institutes, as well as with business and industry; encouraging mobility between the academic and industrial worlds; providing incentives to attract the best researchers; promoting cooperation between different sectors of HE in research; strengthening technology transfer; creating a technology park; merging research institutes into universities; establishing spin-off firms, forming venture capital funds, establishing and promoting of regional HE and research centres; changing higher education institutional structures to integrate research institutes; establishing joint centres of research, higher education and business; increasing focus on commercialisation and communication of research results; and subsidising public-private research consortia. *Id.*

668. *Id.* at 44. Higher education programs cooperated with business and social partners in the following ways: coordinating the implementation of the Bologna Process; drafting legislation or policy papers; elaborating on qualifications frameworks; coordinating membership of governance bodies for higher education institutions or at national level; coordinating membership of committees for drafting higher education legislation, improving research and development, addressing the employability of graduates, and setting graduation requirements and standards; and supporting practical placements for students and graduates. *Id.* at 43.

669. *Id.* at 44.

670. *Id.*

671. *Id.*

672. *Id.* at 45. These good practices included: (1) finding nationally acceptable solutions for ensuring that higher education institutions follow the principles of the Lisbon Recognition Convention in their recognition practices; (2) ensuring that

C. The Stocktaking Conclusions

In addition to the “scorecard” data and the additional stocktaking found in the 2007 report, both the 2005 Stocktaking and the 2007 Stocktaking provided overall conclusions about the impact of the Bologna Process on European higher education. The 2005 Stocktaking concluded that, overall, there had been light green or “very good performance” by the Bologna Process countries in collectively implementing the Bologna Process.⁶⁷⁴ The 2005 Stocktaking Report also included subtotal rankings for each of three priority objectives of the Bologna Process; these too showed “very good performance” by the Bologna Process participants on the three priority categories of degree system, recognition, and quality assurance.⁶⁷⁵ The 2005 Stocktaking found that—with one exception—there had been “very good performance” on each of the ten benchmarks for 2005.⁶⁷⁶ The 2005 Stocktaking Report concluded that these results demonstrated a “real commitment on the part of all participating countries to making the European Higher Education Area a reality.”⁶⁷⁷

Despite the more rigorous benchmarks used in the 2007 Stocktaking, the 2007 report found that there had been good progress since the 2005 Bergen meeting, with much more “green” in the 2007 Stocktaking than had appeared in the 2005 Stocktaking.⁶⁷⁸ It broke these results down further, noting that there had been good progress

recognition of foreign qualifications or study periods is based on identifying and comparing learning outcomes rather than program details; (3) making the assessment of prior and experiential learning an integral part of the assessment of qualifications; (4) ensuring that a qualification is assessed even in those cases where it is difficult to provide full documentary support; (5) working towards using national qualifications frameworks and the overarching EHEA framework as a basis for comparing qualifications; and (6) granting partial recognition rather than denying recognition even where substantial differences are indicated. *Id.*

673. *Id.* at 45–46. Quality assurance and accreditation-related issues were the most frequently mentioned challenges, with fifty-six percent of Bologna Process countries listing this issue. *Id.* at 46. Almost half of the countries listed mobility issues, with student mobility mentioned more often than staff mobility. *Id.* Forty-two percent of countries identified the issue of graduate employability and stakeholder involvement. *Id.* With respect to the other ten issues, the report listed challenges related to research and/or doctoral studies; establishing national qualifications frameworks and outcomes-based qualifications (funding issues); the European dimension of programs (including the establishment of joint degrees); the introduction of the three-cycle degree system; lifelong learning and its recognition; widening participation; governance, strategy and legislation. *Id.* The Stocktaking indicated that few countries saw recognition of degrees and study periods as major issues for the future. *Id.*

674. 2005 STOCKTAKING, *supra* note 35, at 40–41.

675. *Id.*

676. *Id.*

677. *Id.* at 42.

678. 2007 STOCKTAKING, *supra* note 39, at 1–2.

on the three-cycle degree system, good progress on quality assurance, good progress on recognition of degrees and study periods, and stronger links between higher education and research.⁶⁷⁹

The 2007 Stocktaking also found that the Bologna Process had been an effective catalyst for reform at the national level and that higher education institutions, their staff and students, business and social partners, and international organizations were more actively engaged as partners in implementing the Bologna Process than had previously been the case.⁶⁸⁰ Despite the progress cited, the 2007 Stocktaking sounded a cautionary note, reminding readers that there were two themes that linked all of the Bologna Process action lines: a focus on learners and a focus on learning outcomes.⁶⁸¹ It emphasized the need to link all of the action lines and the importance of not looking at the benchmark and stocktaking results in isolation given the interdependent nature of the Bologna Process.⁶⁸² It also emphasized that if the Bologna Process was to be successful in meeting the needs and expectations of learners, all countries need to use learning outcomes (as a basis for their national qualifications frameworks), systems for credit transfer and accumulation, the diploma supplement, systems to recognize prior learning, and quality assurance programs.⁶⁸³

The final set of conclusions concerned the stocktaking process. The report found that the collaborative peer-reported self-evaluation process had been effective in encouraging countries to take action at a national level, that all countries had made progress, and that stocktaking made that progress visible.⁶⁸⁴

In sum, when one looks at the 2005 and 2007 Stocktaking reports, the conclusion is inescapable that the Bologna Process has had a dramatic effect on European higher education, with more changes to come.

679. *Id.*

680. *Id.* at 3.

681. *Id.*

682. *Id.*

683. *Id.*

684. *Id.* at 3–4. The report further observed that stocktaking works best when it is an integral part of a goal-driven development strategy that includes five “steps to success”: (1) the stocktaking countries agree on policy goals, linking them to a vision for the future that is shared by all participating countries; (2) they set targets to be achieved within a certain time frame (making sure the targets are specific, measurable, achievable, relevant, and timed, a rubric that is otherwise known as SMART); (3) they take action both nationally and collectively (providing relevant support, share good practice, encourage peer collaboration); (4) they review progress individually through self-evaluation using agreed-upon criteria (scorecard) complemented by qualitative reporting; and (5) they evaluate achievement collectively (stocktaking). *Id.*

D. Other Evaluations of the Impact of the Bologna Process

Up until now, this section of the Article has relied upon the 2005 and 2007 Stocktaking reports to analyze the impact of the Bologna Process. One might question, however, whether such data is objective in light of the members' interests in promoting the Bologna Process and the EHEA. Indeed, some of the groups that have conducted their own analyses of the Bologna Process have employed a more critical tone than is found in the 2005 or 2007 Stocktaking. Thus, when evaluating the impact of the Bologna Process on European higher education, one should consult these additional reports.

One of the most important critiques of the Bologna Process is the ESIB's report entitled *Bologna with Student Eyes 2007*. It includes strong critiques of the Bologna Process with respect to many of the Bologna Process action lines and the overarching social dimension.⁶⁸⁵ Overall, the students found that governments were picking and choosing with respect to the Bologna Process.⁶⁸⁶ Governments would emphasize commitments that fit their national agenda but neglect other items.⁶⁸⁷ The student report also found that the social dimension had been neglected and that instead of improving since 2005, the social situation for students in some countries had worsened as a result of tuition increases and other issues.⁶⁸⁸ With respect to the degree cycle reforms, the report conceded that the three-degree cycle was widely used, but complained that "there is a substantial lack of real curricular reform throughout the EHEA."⁶⁸⁹ For example, they said that some student unions reported that the old curriculum had simply been "cut" into two to form the bachelor and master's degrees.⁶⁹⁰ They also noted access problems in moving from a bachelor degree to a master's degree and stated that the limited access to the master's degree had created gender inequality.⁶⁹¹

With respect to quality assurance, the 2007 ESIB report noted the increase in student participation, but complained that students

685. ESIB, BOLOGNA WITH STUDENT EYES (2007), available at http://www.esib.org/index.php?option=com_docman&task=doc_download&gid=583&Itemid=263. This report, which was almost seventy pages long, covered thirty-six countries and was based on the results from a web-based questionnaire follow-up interviews and written questions to the national student unions that belong to ESIB (now ESU). *Id.* at 9.

686. *Id.* at 5.

687. *Id.*

688. *Id.* at 5, 11–14.

689. *Id.* at 6, 38–40.

690. *Id.* at 6, 39.

691. *Id.* at 7, 39–41.

were not always recognized as full and equal partners.⁶⁹² The report also complained that countries were not implementing the ECTS properly and that “the dominant majority of countries still have significant problems which need to be addressed.”⁶⁹³

On the issue of mobility, the report cited the fact that student grants and loans were not fully portable for studies abroad and that additional financial support was missing.⁶⁹⁴ With respect to joint degrees, the report found that joint degrees were increasingly offered, but they targeted only a small proportion of students and there was a risk they would become socially exclusive.⁶⁹⁵ Although many of these same observations are contained either in the 2007 Stocktaking or the London Communiqué, the tone of the 2007 ESIB report is much harsher than the 2007 Stocktaking.

The EUA *Trends V* report also has a more critical tone than the 2007 Stocktaking, although it is nowhere near as critical as the 2007 ESIB report.⁶⁹⁶ *Trends V* was based on quantitative and qualitative research and included information from more than nine hundred institutions, as well as comparisons to the prior Trends reports.⁶⁹⁷ As the *Trends V* introduction points out, it provides the most comprehensive view available of European higher education as seen by higher education institutions themselves.⁶⁹⁸ *Trends V* found that higher education institutions were increasingly taking responsibility for the emerging EHEA and that there had been a major attitude shift on the part of universities, with “the vast majority of the 908 institutions involved stating that they consider it vital to move rapidly towards a European Higher Education Area.”⁶⁹⁹ Despite this endorsement, *Trends V* identified a number of challenges that remained⁷⁰⁰ and observed both that the cultural impact of the Bologna Process often had been under-estimated, and that there was

692. *Id.* at 6, 17–21.

693. *Id.* at 7. For a discussion of some of the problems which need to be addressed, see *id.* at 38–45.

694. *Id.* at 6, 31–37.

695. *Id.* at 6, 66.

696. See generally TRENDS V, *supra* note 190 (evaluating the data carefully and thoroughly). Because the 2007 Stocktaking relied on the results of this one-hundred page report, this section of the Article will not summarize the entire Trends V report. See 2007 STOCKTAKING, *supra* note 39, at 9 (noting the stocktaking was drawn mainly from the Trends V report).

697. TRENDS V, *supra* note 190, at 5, 7; see also Trends I–IV, *supra* note 189 (providing links to the four previous Trends reports).

698. TRENDS V, *supra* note 190, at 5.

699. *Id.* at 7.

700. *Id.* at 11–12. In addition to specific issues related to the Bologna Process action lines, Trends V identified three key challenges for the future: institutions must (1) strengthen the relationship between governments, higher education institutions, and other societal stakeholders; (2) develop their capacity to respond strategically to the lifelong learning agenda; and (3) begin to think through the implications of the existence of the European Higher Education Area after 2010. *Id.*

much work left to be done.⁷⁰¹ For example, *Trends V* found that there had been dramatic progress on the degree cycle issue, noting that 82% of institutions have a three-cycle degree system in place compared to 53% in 2003.⁷⁰² It qualified that finding, however, by noting that “important questions remain with regard to different national interpretations of the nature and purposes of the three cycles, and whether these different national interpretations will prove to be compatible.”⁷⁰³

With respect to other issues, *Trends V* cited the widespread use of the ECTS, but found that much work remained to be done to ensure that institutions used the ECTS correctly.⁷⁰⁴ On the issue of quality assurance, *Trends V* concluded that “external quality assurance systems also need to demonstrate that they actually produce an improvement in quality. Considerable concern still remains about the increasing bureaucratic burden on institutions.”⁷⁰⁵ It also found that qualifications frameworks were “a topic of considerable policy debate” and that there was much work to be done in informing higher education institutions and involving them in developments at a national level.⁷⁰⁶

In addition to these reports, a number of other organizations have surveyed the impact of the Bologna Process and the issues it presents.⁷⁰⁷ The Council of Europe, for example, found that there

701. *Id.* at 5.

702. *Id.* at 7.

703. *Id.*

704. *Id.* at 8.

705. *Id.* at 9.

706. *Id.* at 8.

707. See, e.g., BusinessEurope, *Position on the Employability of Graduates*, at 5–7 (May 8, 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/BUSEUROPEPositiononEmpofGrads.pdf> (finding, *inter alia*, that the professional world needs to be integrated in higher education to a greater extent); European Ass’n of Conservatoires (AEC) & the European League of Insts. of the Arts (ELIA), *Towards Strong Creative Arts Disciplines in Europe*, available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/AECELIApositionpaperEnglish11.pdf> (last visited Nov. 1, 2007) (discussing several Bologna Process outcomes and suggesting several areas for improvement); European Comm’n, *Perceptions of Higher Education Reforms: Survey Among Teaching Professionals in Higher Education Institutions, in the 27 Member States, and Croatia, Iceland, Norway and Turkey* (Mar. 2007), available at http://ec.europa.eu/public_opinion/flash/fl198_sum_en.pdf (providing results of 2007 Gallup poll of 5800 teaching professionals in higher education and showing, *inter alia*, that fewer than fifty percent thought that bachelor students would find a suitable job and seventy-five percent think universities need more autonomy from public authorities); European Soc’y for Eng’g Educ., *Position on the Doctorate in Engineering* (May 3, 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/SEFIPositionontheDoctorateinEngineering.pdf> (discussing the impact of the Bologna Process on doctoral engineering programs); League of European Research Univs., *Statement on Doctoral Training and the Bologna Process* (Feb. 2007), available at http://www.dfes.gov.uk/londonbologna/uploads/documents/LERU_%20statement_%20o_n_%20doctoral_%20training_February2007.pdf (discussing the impact of the Bologna Process on research-driven PhD programs); Univs. of Applied Sci., *Joint Statement to*

were unresolved issues regarding the vision and values of the EHEA, actors and their responsibilities, quality development and the role of different institutions, higher education governance, the bachelor degree in the labor market, mobility, and the interaction between higher education policies and other areas of public policy.⁷⁰⁸

Despite these differences in tone and the cautionary notes found in some of these reports, my conclusion is that all of these reports confirm the Bologna Process' dramatic impact on European higher education. Although the stakeholders may sometimes disagree about the relative importance and wisdom of different Bologna Process Action Lines, the degree of their implementation, the desired pace of the Bologna Process, and the extent of governments' commitments to the Bologna Process and the EHEA, all of the reports cited in this section of the Article demonstrate that there can be no doubt that the Bologna Process has had a tremendous impact on European higher education and that its impact is likely to continue in the future.

The reactions of those outside Europe further confirm the impact of the Bologna Process on European higher education. Many U.S. higher education organizations have written about the Bologna Process or included it in their conferences.⁷⁰⁹ For example, in 2005,

the Bologna Process Ministerial Summit (May 2007), available at <http://www.dfes.gov.uk/londonbologna/uploads/documents/JointstatementofUnivofAppliedSciencetoBP.doc> (calling upon the Ministers to put certain measures into effect to improve the impact of the Bologna Process).

708. Council of Europe Lisbon Convention Website, *supra* note 161.

709. See, e.g., NAT'L SCI. FOUND., SCIENCE AND ENGINEERING INDICATORS 2006 ch. 2, 36 (2006), available at <http://www.nsf.gov/statistics/seind06/pdf/c02.pdf> (discussing educational reforms in Europe in science and engineering); NAFSA: ASS'N OF INT'L EDUCATORS, RESTORING U.S. COMPETITIVENESS FOR INTERNATIONAL STUDENTS AND SCHOLARS (2006), available at http://www.nafsa.org/_/Document/_/restoring_u.s.pdf (noting that the Bologna Process has made European higher education more competitive globally); COMM. ON SCI., ENG'G, & PUB. POLICY, POLICY IMPLICATIONS OF INTERNATIONAL GRADUATE STUDENTS AND POSTDOCTORAL SCHOLARS IN THE UNITED STATES (2005), available at <http://www.nap.edu/books/0309096138/html/R1.html> (mentioning the Bologna Process in the context of undergraduate and graduate universities in Europe); *A Unified European Higher Education Area in 2010: What Does it Mean for Europe and for U.S. Higher Education?*, NEA HIGHER EDUC. RES. CENTER UPDATE (Nat'l Educ. Ass'n., Washington, D.C.), Nov. 2005, available at <http://www2.nea.org/he/heupdate/images/vol11no2.pdf> (summarizing the effects of the Bologna Process on both European and United States higher education institutions); *Assessing a Year of International Graduate Admissions: Trends and Findings from the CGS International Graduate Admissions Survey*, CSG COMMUNICATOR (Council of Graduate Schs., Washington, D.C.), Dec. 2004, available at http://www.cgsnet.org/portals/0/pdf/comm_2004_12.pdf (hypothesizing the effects of the Bologna Process); Barbara M. Kehm, *Forces and Forms of Change: Doctoral Education in Germany Within the European Framework*, Sept. 2005, available at <http://depts.washington.edu/cirgecon/papers/germany.doc> (discussing initiatives at the European level such as the Bologna Process); see also Press Release, Ass'n of American Colls. and Univs., Global Challenges Require New Investment and Innovation in Liberal Education (Jan. 17, 2006), available at http://www.aacu.org/press_room/press_releases/2006/

the Council of Graduate Schools concluded that “[t]here is a strong argument to be made that a more uniform response among U.S. universities to what is often called “the (three-year) Bologna degree” is needed and/or inevitable if the U.S. is to remain competitive in the global graduate education market.”⁷¹⁰ At a conference on *Graduate Education and American Competitiveness*, “[v]irtually every speaker . . . in one way or another, stated that international competition in graduate education threatens American world-wide leadership in research and innovation and therefore threatens American prosperity.”⁷¹¹ The U.S. Department of Education is also involved in these issues; it participated in the February 2007 Bologna Process recognition seminar when its representative gave a presentation entitled *Bologna and the World, or Bologna vs. the World? Transatlantic Progress and Challenges in a Global Context*.⁷¹² This presentation accepted the premise that the Bologna Process has and will continue to have an impact on U.S. higher education, which in turn affects U.S. jobs and the U.S. economy.⁷¹³ These conferences and reports are a testament to the importance of the Bologna Process.

V. THE EFFECT OF THE BOLOGNA PROCESS ON EUROPEAN LEGAL EDUCATION

The prior section concluded that the Bologna Process has had a significant impact on European higher education. But what about legal education? Although the 2005 and 2007 Stocktaking Reports did not address legal education specifically, other information is available that strongly suggests that the Bologna Process has also had a dramatic impact on legal education in Europe. The existing literature (and anecdotal evidence) suggests that the Bologna Process

AnnualMeetingMediaAlert.cfm (noting that at a recent conference the Bologna Process and the future of higher education were the subjects of a featured discussion session).

710. Daniel Denecke, *The Three-Year Degree, The Bologna Process, and U.S. Graduate Admissions*, in COUNCIL OF GRADUATE SCHS., FINDINGS FROM 2005 CGS INTERNATIONAL GRADUATE ADMISSIONS SURVEY III: ADMISSIONS AND ENROLLMENT 6, 6 (rev. Nov. 17, 2005), available at http://www.cgsnet.org/portals/0/pdf/CGS2005IntlAdmitIII_Rep.pdf [hereinafter 2005 CSG ENROLLMENT FINDINGS].

711. Paul Tate, *Graduate Education and American Competitiveness*, CGS COMMUNICATOR (Council of Graduate Schs., Washington, D.C.), June 2005, at 2, available at http://www.cgsnet.org/portals/0/pdf/comm_2005_06.pdf.

712. E. Stephen Hunt, *Bologna and the World, or Bologna vs. the World?: Transatlantic Progress and Challenges in a Global Context*, Seminar to the BFUG in Riga, Latvia (Jan. 25–26, 2007), available at http://www.aic.lv/bologna2007/presentations/S_Hunt_Riga%202007%20Presentation_Final.pdf.

713. See *id.* (discussing the impact of the Bologna Process on U.S. and Canadian higher education).

has had an impact on European legal education.⁷¹⁴ For example, the Dean of the law department at the University of Leuven, Belgium, described how his law school had combined its bankruptcy, trade-law, and company-law courses into a single course on economic law in order to accommodate the shift to a bachelor's program and still have room for the humanities courses in its curriculum.⁷¹⁵ In another article, Dean Vanistendael summarized four historically different models of legal education in Europe and the ways in which they have changed in light of the Bologna Process and other developments.⁷¹⁶

Even articles that have been critical of the Bologna Process reveal its impact. For example, one law review article explained some of the challenges that the legal department of Aarhus University in Denmark faced when implementing the ECTS.⁷¹⁷ Another commentator noted the resistance to the Bologna Process by some law departments in European universities and cited as an example of this resistance the threat by some Austrian law faculty to go on strike as a result of being excluded from the reform process.⁷¹⁸

In addition to examining law review articles that document the effect of the Bologna Process on European legal education, one can also look at the activities of the major European legal education stakeholders in order to examine the effect of the Bologna Process on European legal education. ELFA has issued an Information Note about the Bologna Process for its members.⁷¹⁹ It also has sponsored

714. See, for example, *supra* note 4 for an extensive list of articles on this impact.

715. Vanistendael, *Curricular Changes in Europe Law Schools*, *supra* note 4, at 456–57.

716. Vanistendael, *BA-MA Reform, Access to the Legal Profession, and Competition in Europe*, *supra* note 4.

717. Jørgen Albæk Jensen, *Introducing and Applying the ECTS System—Practical Implications*, ELFA NEWSL. (Belgium), 2001, at 59, available at <http://www.elfa-afde.org/PDF/Newsletter/2001-1.pdf>. See also articles from the European Journal of Legal Education listed in *supra* note 3 discussing the ECTS.

718. Lonbay, *Reflections on Education and Culture in EC Law*, *supra* note 3, at 253. See also Vanistendael, *BA-MA Reform, Access to the Legal Profession, and Competition in Europe*, *supra* note 4, at 9 (describing the mixed reactions to the Bologna Process expressed at the 2002 European Law Faculties Meeting); Reich, *supra* note 4, at 27 (describing ELFA's reactions to the Bologna Process). The situation in Germany has been described as follows: "Most of the law faculties are very reluctant towards those reforms; partly, because a major reform of the legal education took place in the year 2003. In fact—the German Law Faculties Association (Deutscher Juristen-Fakultätentag) regards the German legal education system as incompatible to the Bologna system." CCBE, COMPARATIVE TABLE ON TRAINING OF LAWYERS IN EUROPE, *supra* note 293, at 27.

719. ELFA, *Information Note for ELFA Members Regarding the Development of European Higher Education and Its Possible Impact on Law Studies in Europe*, http://www.elfa-afde.org/html/legal_sorbonne_information%20note.htm (last visited Nov. 2, 2007).

discussions about the Bologna Process⁷²⁰ and adopted a policy statement expressing cautious approval about the Bologna Process.⁷²¹ Most of the articles that have appeared in its relatively new journal address the issue of the Bologna Process.⁷²²

Even more significant, however, is data collected by the CCBE, which represents the bars and law societies of the EU.⁷²³ In September 2005, the CCBE published a two-hundred page report that summarized the responses from a questionnaire it had sent to its members regarding lawyer training issues.⁷²⁴ This CCBE survey included questions about the implementation of two Bologna Process objectives, the two-degree cycle objective, and the use of the ECTS. The resulting CCBE data showed that many European countries have made changes with respect to both of these areas.⁷²⁵ This CCBE data is presented in Appendix 3 in a table format.

The CCBE's survey responses and resulting report are not perfect and thus require interpretation. For example, the CCBE report does not provide data for all Bologna Process participants because not all of them are CCBE members or observers.⁷²⁶ Moreover, the report does not include responses from all CCBE members and observers on all issues.⁷²⁷ In addition, not all answers are completely responsive to the questions asked and the lawyers or bar officials responding did not always have access to the information requested.⁷²⁸ Finally, the CCBE data may understate the effect of the Bologna Process. For example, I disagree with some of the comments about Germany in the CCBE report and whether the Bologna Process has affected the law degree structure in Germany.⁷²⁹

720. See, e.g., ELFA, *Discussion on the Bologna Declaration* (Feb. 23, 2002), available at http://www.elfa-afde.org/PDF/Sorbonne%20Bologna/RIGA_discussion.pdf (summarizing the central points of the discussion).

721. See, e.g., ELFA, *For a European Space of Legal Education*, *supra* note 282 (“ELFA is very much in favour of the spirit underlying the Bologna Declaration.”).

722. For a list of these articles, see *supra* note 4.

723. For information on the CCBE, see CCBE, Introduction, *supra* note 291 and accompanying text.

724. See CCBE, COMPARATIVE TABLE ON TRAINING OF LAWYERS IN EUROPE, *supra* note 293, at 1 (noting the circulation of the questionnaire).

725. See *infra* app. 3 (summarizing key information in the CCBE survey).

726. See *infra* app. 1 (providing information about the Bologna Process participants).

727. See, e.g., CCBE, COMPARATIVE TABLE ON TRAINING OF LAWYERS IN EUROPE, *supra* note 293, at 76–78 (failing to provide information for FYRO Macedonia or Ukraine with respect to Question 8, regarding the ECTS system).

728. See, e.g., *id.* (referring the reader to the hyperlinks for the Portuguese universities under the Portugal listing with respect to Question 8, and noting in the listing for Lithuania that the universities had not responded to inquiries, and noting in the listing for solicitors in England and Wales that ECTS “is not a requirement of the professional body although some universities might choose to use ECTS”).

729. See Laurel S. Terry, *Living with the Bologna Process: Recommendations to the German Legal Education Community from a U.S. Perspective*, 7 GERMAN L.J. 11 (2006), available at http://www.germanlawjournal.com/pdf/Vol07No11/Vol_07_No_

Despite its deficiencies, this CCBE report is a tremendous resource and provides the best available information to track implementation of certain aspects of the Bologna Process into European legal education.

According to my interpretation of the CCBE data, the Bologna Process has changed the law degree structure in seventeen of the thirty-seven jurisdictions it surveyed, which is more than 45%.⁷³⁰ Moreover, thirteen of thirty-seven jurisdictions use the ECTS for crediting purposes and seven use it for grading purposes.⁷³¹ Although these numbers show that the Bologna Process has had some impact on European legal education, they may vastly underreport the extent of that impact. One of the noteworthy things about the CCBE Survey is the fact that only ten jurisdictions unequivocally responded that the Bologna Process had not changed their degree structure, and many responses were ambiguous, conditional, or non-responsive.⁷³² Thus, the impact of the Bologna Process may be much larger than the “yes” responses indicate. This data is presented in a table in Appendix 3.

Although ELFA has not collected data as the CCBE has, in 2002, ELFA adopted a policy statement on the Bologna Process that is consistent with the CCBE data and shows the impact of the Bologna Process on European legal education.⁷³³ The substantive portion of ELFA’s policy statement begins by expressing support for the Bologna Process.⁷³⁴ ELFA’s policy statement began by noting the

11_863-905_Articles_Terry_pdf.pdf (discussing the effect of the Bologna Process on Germany). As that article shows, there are a number of new bachelor of law and master of law degrees in Germany due in part to the Bologna Process reforms. *Id.* at 887. On the other hand, the Staatsexam, rather than a bachelor or master’s degree, is still required in order to qualify as a lawyer. *Id.* at 875. Thus, on the one hand, it is accurate to state that the Bologna Process has not affected the law degree structure in Germany. On the other hand, the issue is complicated, and it might be useful to know that some institutions that provide traditional German legal education now offer bachelor of law and master of law degrees also.

730. See CCBE, COMPARATIVE TABLE ON TRAINING OF LAWYERS IN EUROPE, *supra* note 293, at 26–29 (listing for question 5(a)).

731. *Id.* at 74–77.

732. See app. 3 (showing eleven ambiguous, conditional or non-responsive answers to the question of whether the Bologna Process had affected the law degree structure, nineteen such answers to the question about ECTS grading, and twenty-two such answers to the question about ECTS crediting).

733. ELFA, *For a European Space of Legal Education*, *supra* note 282.

734. See *id.* at 1.

ELFA is very much in favour of the spirit underlying the Bologna Declaration, namely a general concern about the quality, transparency and mobility in European (legal) education, an increase in competitiveness of European institutions of higher education in a globalising world, the achievement of greater compatibility and comparability of systems of higher education, a reduction of student drop-up rates in law faculties, and an orientation of

impact of the Bologna Process on legal education, observing that “many countries and many of its member faculties have already undertaken or are about to undertake changes of their curricula in order to fulfil the requirements of the Bologna Declaration.”⁷³⁵ ELFA’s statement also identified areas of concern that needed further work. It observed that in order to have a European space for legal education, there needed to be a European space of professional practice in law.⁷³⁶ It urged the responsible persons to devote more attention to the needs and standards of professional education and listed specific issues of concern, including access to legal education; financing for legal education; inconsistencies in the grading, assessment, and ECTS use for the study of law; and issues raised by the bachelor-master-doctorate cycle system.⁷³⁷ On the latter point, the ELFA policy statement pointed out that the bachelor-master-doctorate degree system was not completely compatible with the needs and conditions of professional education and training and that, because of the inconsistent approaches in countries on the issue of whether a three year bachelor degree in law would qualify one as a lawyer, it was not yet clear whether a general framework could be established for all European jurisdictions within which a law student can be admitted to practice law.⁷³⁸ ELFA also noted that that there needed to be more discussion about whether to keep the undergraduate (bachelor’s) and graduate (master’s) legal education separate.⁷³⁹

ELFA’s 2002 policy statement offered approximately two pages of proposals for a more “Europeanised” system of legal education.⁷⁴⁰ Its recommendations included, *inter alia*, a recommendation that European universities be permitted to choose among three different models of law programs, one of which would result in a student becoming licensed as a lawyer in more than one European jurisdiction.⁷⁴¹ ELFA also recommended that in conjunction with

university degrees also towards needs of the changing labour market, whilst always maintaining high standards in academic education.

Id.

735. *Id.* at 2.

736. *Id.* at 2.

737. *Id.* at 2–4.

738. *Id.* at 2–3.

739. *Id.* at 2–3.

740. *Id.* at 4–6.

741. *Id.* at 6. The ELFA policy statement elaborated upon the three models, which were: (1) The generic LL.B./LL.M. model which would combine basic training in one jurisdiction with a later masters phase concerning a certain Europeanization and specialization of graduates; cross-border practice would follow from EU-Directives 89/48/EEC or 98/5/EC; (2) The cross-border LL.B./LL.M. model which is more concentrated on immediately being able to join professional practice training which

university and professional associations, it should monitor the “Europeanisation and flexibilisation of legal education in Europe,” perhaps resulting in evaluation and eventual accreditation of truly European study models.⁷⁴² ELFA observed that “if European legal education wants to compete with the highly successful US-American system of education for lawyers, a number of additional and more courageous steps have to be taken which will need a careful discussion.”⁷⁴³ This policy statement thus demonstrates that the Bologna Process has had an impact on legal education, as well as other fields of higher education.

Another way to measure the impact of the Bologna Process on legal education is to look at ELFA’s other Bologna Process initiatives. ELFA has sponsored a conference,⁷⁴⁴ made commitments for future studies (such as on ECTS use in law),⁷⁴⁵ and become heavily involved in the Tuning Project.⁷⁴⁶ ELFA’s quality assurance, accreditation, and assessment committee, known as QUAACAS, has invited European law school representatives to “to submit an application for participation in its project *Tuning Legal Studies in Europe*” project.⁷⁴⁷ The invitation explained the purpose of the *Tuning Legal Studies in Europe* Project and the data QUAACAS hoped to collect:

[W]hereas the Bologna Declaration concerns the convergence of Higher Educational systems in Europe, the university-initiated Tuning project focuses on the comparability of educational *structures* and the *content* of programmes of study. The project is co-financed by the European Commission in the framework of the SOCRATES-ERASMUS-programme and the institutions involved. . . . The Tuning Legal Studies project which [Quaacas] has joined seeks to achieve this result for legal studies. . . .

To co-ordinate the national responses and participate in their analysis, a representative must be selected for each country. This academic must be someone respected by peers with knowledge of legal studies, administration and curriculum development. It is important that representatives are able to develop a national consensus by communicating and organising with relevant stakeholders in each

would then be recognized in at least two countries; and (3) The current U.K./Irish model; cross border practice following from EU directives 89/48/EEC and 98/5/EC. *Id.*

742. *Id.* at 6.

743. *Id.* at 4.

744. ELFA, Activities: Conferences, http://www.elfa-afde.org/html/activities_conferences.html (last visited Nov. 5 2007) (listing a number of ELFA-sponsored conferences).

745. See ELFA, *For a European Space of Legal Education*, *supra* note 282, at 4 (“ELFA is currently planning to undertake an inquiry among its member faculties on the practical experiences with the ECTS system and its development from a credit transfer to a credit accumulation system.”).

746. See *supra* notes 227–40 and accompanying text for a discussion of the Tuning Project.

747. Letter from Julian Lonbay, QUAACAS Comm. Chair, to Applicants for Tuning Legal Studies in Europe (Feb. 2005), *available at* <http://elixir.bham.ac.uk/quaacas/Docs/Participate/LETTER%20-%20Law3.pdf>.

country. Under the Tuning Legal Studies project selected institutions across Europe will, through a representative, participate in coordinating national research to establish key competencies and learning outcomes for graduates in law. The participants will apply the Tuning Legal Studies methodology and Guidelines established by QUAACAS.⁷⁴⁸

ELFA has planned to ask respondents to complete an on-line questionnaire, which would be followed by an assessment of the results, and development of a European-wide qualification framework that would address both generic and specific (legal) competences.⁷⁴⁹ QUAACAS's proposal to the European Commission included possible models of "optional" accreditation.⁷⁵⁰

In sum, there is limited information available about the impact of the Bologna Process on European legal education. But the information that *is* available makes it clear that the Bologna Process already has had a dramatic effect on European legal education and that it will continue to change the face of legal education in Europe, just as it has changed other fields of higher education in Europe.

VI. CONCLUSION

By addressing the Bologna Process' context, history, and goals, this Article should help U.S. lawyers, legal educators, and others understand what is meant by the phrase "Bologna Process" and make it easier for them to research the many initiatives connected to this project. As this Article explained, the Bologna Process started less than a decade ago as the initiative of four countries, but has now grown to forty-six European countries, all of whom have committed themselves to forming the European Higher Education Area by 2010.

The parameters and goals of the Bologna Process and the European Higher Education Area are set forth in six documents that memorialize the ministerial-level meetings: the 1998 Sorbonne

748. *Id.*

749. QUAACAS NEWSL. (ELFA), Jan. 2005, available at http://elixir.bham.ac.uk/quaacas/Docs/Participate/quaacas_newsletter_Jan2005.pdf.

750. According to a September 2005 newsletter, the November 2005 proposal planned to seek funding to establish a "law" thematic network. *Tuning Legal Studies in Europe*, *supra* note 286. The three themes to be included in the network were: quality assurance, benchmarks, and learning outcomes in legal studies in Europe; accreditation of legal studies in Europe; and teaching methodology and assessment in legal studies in Europe. *Id.* The QUAACAS-*Tuning Legal Studies in Europe (2005-2006)* project builds on the earlier work of the QUAACAS Committee. This committee organized a November 2004 conference in Utrecht, a February 2005 conference in Graz, a February 2006 conference in Leuven, a February 2007 conference in Barcelona, and has posted these materials on the committee's websites. ELFA, QUAACAS Committee, http://www.elfa-afde.org/html/about_committees.html#QUAACAS (last visited Nov. 5, 2007); QUAACAS Committee Webpage, <http://elixir.bham.ac.uk/quaacas/index.htm> (last visited Nov. 5, 2007).

Declaration, the 1999 Bologna Declaration, the 2001 Prague Communiqué, the 2003 Berlin Communiqué, the 2005 Bergen Communiqué, and the 2007 London Communiqué. These six documents are the basis for the ten “action lines” of the Bologna Process.

In addition to these six documents, the Bologna Process Ministers have adopted and currently are implementing two more documents: the *European Qualifications Framework* and the *Standards and Guidelines for Quality Assurance in the European Higher Education Area*. The Ministers also adopted a strategy entitled *The European Higher Education Area in a Global Setting* and endorsed the creation of a new register of European Quality Assurance Agencies. As these documents and action lines show, the Bologna Process is about much more than the degree changes that have garnered the most publicity.

This Article should help researchers understand the overlap between the various Bologna Process initiatives and the initiatives of intergovernmental and non-governmental organizations, including the EU, the Council of Europe, and UNESCO. This Article also introduced the reader to the Bologna Process “participating organizations” such as ENQA, the EUA, and EURASHE; these organizations have made important contributions to the Bologna Process and are in many respects carrying its work forward.

The Bologna Process has a rotating Secretariat, currently held by the Benelux countries, and multiple websites that are linked to a particular Ministerial meeting and include documents generated during the two-year period leading up to that meeting. The Bologna Process has sponsored two extensive stocktaking exercises, each of which resulted in a lengthy report with color-coded scorecards for each Bologna Process member. The next stocktaking will take place in time for the May 2009 Leuven ministerial meeting.

As these stocktakings and other data confirm, the Bologna Process has reshaped the face of European higher education in a way that is nothing short of breathtaking. Data from the CCBE and others suggest that European legal education has not been immune to these changes; it too has been dramatically affected by the Bologna Process. Moreover, these changes appear to be just the tip of the iceberg; the Bologna Process countries have committed themselves to many more changes as they continue to implement the Bologna Process and the EHEA by the year 2010.

Given the size of Europe, the number of countries participating in the Bologna Process, the scope of the Bologna Process agenda, and the impact it already has had, it is hard to imagine that the Bologna Process *won't* have an effect in the United States. Thus, the Bologna Process is an exceedingly important development and one that the U.S. legal community should monitor.

APPENDIX 1
INFORMATION ABOUT BOLOGNA PROCESS PARTICIPANTS AS OF
SEPTEMBER 2007

The Bologna Process was initiated in 1998 by four EU Member States,⁷⁵¹ but expanded one year later to include both EU and non-EU Member States.⁷⁵² Currently, twenty-seven of the Bologna Process' forty-six members are both EU Member States and Council of Europe Member States, while nineteen Bologna Process members belong to the Council of Europe but not the EU.⁷⁵³ Moreover, the Bologna Process participants have previously been asked to accept applications from two countries—Kazakhstan and Kosovo—that are neither Council of Europe nor EU Member States.⁷⁵⁴

Although the Bologna Process is an independent initiative, there is significant overlap in its initiatives and the initiatives of other governmental entities such as the EU, the Council of Europe, and the United Nations. There is also overlap with the initiatives of non-governmental organizations, including law-related organizations. These relationships and initiative overlap would provide the basis for much additional study. This Appendix begins that process by identifying the overlapping memberships in the following Table.

Bologna Process Participants (46) ⁷⁵⁵	Council of Europe Members (47) ⁷⁵⁶	EU Member States (27) ⁷⁵⁷	EEA and-or EFTA countries (4) ⁷⁵⁸	CCBE members (31) and observers (6) ⁷⁵⁹	European Law Fac. Assoc. ⁷⁶⁰
Albania (2003)	Yes	No	No	No	No
Andorra (2003)	Yes	No	No	No	No
Armenia (2005)	Yes	No	No	No	Yes
Austria (1999)	Yes	Yes	No	Yes	Yes

751. Sorbonne Declaration, *supra* note 12.

752. See *supra* note 13 and accompanying text for details of this expansion and the particular nations involved.

753. See *supra* note 13 and accompanying text for details of these members and the chart *infra* app. 1 for a complete listing of these members.

754. See *supra* note 14 for a discussion of Kazakhstan and Kosovo as non-members.

755. Benelux Bologna, Bologna Participating Organizations, *supra* note 13.

756. Council of Europe, The Council of Europe's Member States, http://www.coe.int/T/E/Com/About_Coe/Member_states/default.asp (last visited Nov. 5, 2007).

757. Europa, The EU at a Glance: European Countries, *supra* note 13.

758. EFTA, EFTA Secretariat, <http://secretariat.efta.int/> (last visited Nov. 5, 2007).

759. CCBE, Members by Countries, <http://www.ccbe.eu/index.php?id=19> (last visited Nov. 5, 2007).

760. ELFA, List of Members, <http://www.elfa-afde.org/html/frameset.html> (last visited Nov. 5, 2007).

Bologna Process Participants (46) ⁷⁵⁵	Council of Europe Members (47) ⁷⁵⁶	EU Member States (27) ⁷⁵⁷	EEA and- or EFTA countries (4) ⁷⁵⁸	CCBE members (31) and observers (6) ⁷⁵⁹	European Law Fac. Assoc. ⁷⁶⁰
Azerbaijan (2005)	Yes	No	No	No	No
Belgium (1999)	Yes	Yes	No	Yes	Yes
Bosnia and Herzegovina (2003)	Yes	No	No	No	
Bulgaria (1999)	Yes	Yes	No	Observer	Yes
Croatia (2001)	Yes	No	No	Observer	Yes
Cyprus (2001)	Yes	Yes	No	Yes	Yes
Czech Republic (1999)	Yes	Yes	No	Yes	Yes
Denmark (1999)	Yes	Yes	No	Yes	Yes
Estonia (1999)	Yes	Yes	No	Yes	Yes
Finland (1999)	Yes	Yes	No	Yes	Yes
Frmr. Yugoslav RO Macedonia (2003)	Yes	No	No	Observer	Yes
France (1998)	Yes	Yes	No	Yes	Yes
Georgia (2005)	Yes	No	No	No	Yes
Germany (1998)	Yes	Yes	No	Yes	Yes
Greece (1999)	Yes	Yes	No	Yes	Yes
The Holy See (2003)	Observer	No	No	No	No
Hungary (1999)	Yes	Yes	No	Yes	Yes
Iceland (1999)	Yes	No	Yes (both)	Yes	Yes
Ireland (1999)	Yes	Yes	No	Yes	Yes
Italy (1998)	Yes	Yes	No	Yes	Yes
Kazakhstan (has applied)	No	No	No	No	No
Kosovo (has applied)	No	No	No	No	No
Latvia (1999)	Yes	Yes	No	Yes	Yes
Liechtenstein (1999)	Yes	No	Yes (both)	Yes	No
Lithuania (1999)	Yes	Yes	No	Yes	Yes
Luxembourg (1999)	Yes	Yes	No	Yes	No

Bologna Process Participants (46) ⁷⁵⁵	Council of Europe Members (47) ⁷⁵⁶	EU Member States (27) ⁷⁵⁷	EEA and-or EFTA countries (4) ⁷⁵⁸	CCBE members (31) and observers (6) ⁷⁵⁹	European Law Fac. Assoc. ⁷⁶⁰
Malta (1999)	Yes	Yes	No	Yes	Yes
Moldova (2005)	Yes	No	No	No	No
Montenegro (2007)	Yes	No	No	Observer	Yes
Netherlands (1999)	Yes	Yes	No	Yes	Yes
Norway (1999)	Yes	No	Yes (both)	Yes	Yes
Poland (1999)	Yes	Yes	No	Yes	Yes
Portugal (1999)	Yes	Yes	No	Yes	Yes
Romania (1999)	Yes	Yes	No	Observer	Yes
Russian Federation (2003)	Yes	No	No	No	Yes
Serbia (2003)	Yes	No	No	No	Yes
Slovak Republic (1999)	Yes	Yes	No	Yes	Yes
Slovenia (1999)	Yes	Yes	No	Yes	Yes
Spain (1999)	Yes	Yes	No	Yes	Yes
Sweden (1999)	Yes	Yes	No	Yes	Yes
Switzerland (1999)	Yes	No	Yes (EFTA)	Observer	Yes
Turkey (2001)	Yes	No: pending	No	Observer	Yes
Ukraine (2005)	Yes	No	No	Observer	Yes
United Kingdom (1998)	Yes	Yes	No	Yes	Yes
Participating Organizations					
The European [Union] Commission (previously the only non-country voting member of the BFUG), the Council of Europe, UNESCO-CEPES, ENQA, ESU (formerly ESIB), EUA, EURASHE, BusinessEurope (formerly UNICE), and the Education International Pan-European Structure (including Education International (EI) and ETUCE)					

APPENDIX 2**TERRY SUMMARY OF THE 2007 (AND 2005) STOCKTAKINGS⁷⁶¹**

This Appendix was prepared by the Author and summarizes the quantitative information contained in the 2005 and 2007 Stocktakings. The table is organized according to the benchmarks used in the 2007 Stocktaking country scorecards. For each benchmark, this table lists the number of countries that received a particular color-coded rating and the mean score for each benchmarked item. There were forty-eight scorecard ratings in 2007 compared to forty-three scorecards in 2005. This Appendix includes in parentheses the numbers from the 2005 Stocktaking for those benchmark items included in the 2005 report, together with the “color” awarded to the Bologna Process members for their collective performance on that benchmark item. Four benchmarks were new in 2007 and do not have any 2005 data listed. It is not appropriate to make a direct comparison of the 2005 and 2007 numbers because, in many cases, the standards used in the 2007 Stocktaking were more rigorous than the standards used in the 2005 Stocktaking. For example, in 2005, it was much easier to earn a “green” score for the benchmark involving international involvement in quality assurance than it was in 2007. Nevertheless, because readers might find it of interest, Table 1 includes 2007 data and 2005 data. This table illustrates the dramatic impact of the Bologna Process on European higher education.

In the 2005 Stocktaking, the color-coded scores were given descriptive names: green equals “excellent performance;” light green equals “very good performance;” yellow equals “good performance;” orange equals “some progress has been made;” and red equals “little progress has been made.”⁷⁶²

The 2005 Stocktaking measured each country’s individual progress, but also measured the Bologna Process members’ collective progress on each benchmarked item, its progress in each of the three main categories (degree system, quality assurance, and recognition), and its overall progress. The Bologna Process members received a collective rating of light green on every benchmark item except student participation, a light green rating for the three categories, and a light green rating for their overall collective progress.

In the 2007 Stocktaking, the color-coded country scores were retained, but the descriptive titles were not used. Instead, point values were assigned to each color: green equals five points; light

761. The table in this Appendix shows the number of countries receiving each benchmark score, recognizing that the 2005 and 2007 benchmarks differed. For the scores summarized in the charts, see 2005 STOCKTAKING, *supra* note 35, at 64–106; 2007 STOCKTAKING, *supra* note 39, at 56–80.

762. 2005 STOCKTAKING, *supra* note 35, at 15.

green equals four points; yellow equals three points; orange equals two points; and red equals one point.⁷⁶³

Table 6 in the 2007 Stocktaking listed the mean scores for each benchmark in the 2007 Stocktaking. These numbers are included in this Appendix.

	Green	Light green	Yellow	Orange	Red	Mean Score
<i>Degree System Benchmarks</i> [2007 Benchmarks (2005 Benchmarks)]						
1. Stage of implementation of the first and second cycle ⁷⁶⁴	23 (17)	11 (6)	10 (7)	4 (10)	0 (3)	4.1 (light green)
2. Access to the next cycle ⁷⁶⁵	37 (19)	5 (12)	2 (3)	1 (7)	3 (2)	4.5 (light green)

763. 2007 STOCKTAKING, *supra* note 39, at 14.

764. For this first benchmark, **green** means that in 2006-07, at least 90% of all students were enrolled in a two-cycle degree system that is in accordance with the Bologna principles. **Light green** means that 60-89% of all students were enrolled in such a system. **Yellow** means that 30-59% of all students were enrolled. **Orange** means that either less than 30% of all students were enrolled in such a system or that legislation for a degree system in accordance with the Bologna principles had been adopted and is awaiting implementation. **Red** indicates both that no students were enrolled in a two-cycle degree system that is in accordance with the Bologna principles and that there is no legislation in force to make the degree system compatible with the Bologna principles. 2007 Stocktaking Report, *supra* note 39, at 12. The 2007 benchmark was a revised version of the 2005 benchmark; in 2005, green meant that less than 81% of students were enrolled in a 2-cycle system, and light green, yellow, orange and red meant (respectively) that 51-80%, 25-50%, 1-24%, and 0% of students were enrolled. *Id.*

765. For the second benchmark, **green** indicates that all first cycle qualifications give access to several second cycle programs and all second cycle qualifications give access to at least one third cycle program without major transitional problems. **Light green** indicates that all first cycle qualifications give access to at least one second cycle program and all second cycle qualifications give access to at least one third cycle program without major transitional problems. **Yellow** means that there are some (less than 25%) first cycle qualifications that do not give access to the second cycle or some second cycle qualifications that do not give access to the third cycle. **Orange** indicates that a significant number (25-50%) of first and/or second cycle qualifications do not give access to the next cycle. **Red** means that most (more than 50%) first and/or second cycle qualifications do not give access to the next cycle OR there are no arrangements for access to the next cycle. *Id.* at 14. This benchmark was revised in 2007; the 2005 numbers measured whether the students had the right to apply and be considered, not the actual number of students progressing to the next cycle. *Id.* at 15.

	Green	Light green	Yellow	Orange	Red	Mean Score
3. Implementation of national qualifications framework ⁷⁶⁶	7 ---	6 ----	11 -----	23 -----	1 ----	2.9 ---
Quality Assurance Benchmarks [2007 Benchmarks (2005 Benchmarks)]						
4. National implementation of the <i>Standards and Guidelines for Quality Assurance in the EHEA</i> ⁷⁶⁷	17 ---	26 ---	4 ---	1 ---	0 ---	4.2 ---
5. Stage of development of external quality assurance system ⁷⁶⁸	18 (18)	23 (8)	5 (9)	2 (7)	0 (1)	4.2 (light green)

766. For the third benchmark, new in 2007, **green** means that a national Qualification Framework (QF) in line with the overarching QF for EHEA is in place. **Light green** means that a proposal for a national QF in line with the overarching QF for EHEA has been discussed with all relevant stakeholders at the national level and a timetable for implementation has been agreed-upon. **Yellow** indicates that a proposal for a national QF in line with the overarching QF for EHEA has been prepared. **Orange** means that the development process leading to definition of national QF in line with the overarching QF for EHEA has started, and it includes all the relevant national stakeholders. **Red** means that work at establishing national QF in line with the overarching QF for EHEA has not started. *Id.* at 16.

767. For this fourth benchmark, new in 2007, **green** means that a national quality assurance (QA) system in line with the *Standards and Guidelines for QA in the EHEA* is fully operational. **Light green** means that the process of implementing a national QA system in line with the *Standards and Guidelines* has started. **Yellow** indicates that there are plans and established deadlines for amending the national QA system in line with the *Standards and Guidelines*. **Orange** signifies that a national quality assurance system is under review in line with the *Standards and Guidelines for QA in the EHEA*. **Red** means there are no arrangements to implement the *Standards and Guidelines*. *Id.* at 18.

768. For the fifth benchmark, **green** indicates that there is a fully functioning quality assurance (QA) system in operation at national level and it applies to all higher education. Evaluation of programs or institutions includes three elements: (1) internal assessment; (2) external review; and (3) publication of results. In addition, procedures have been established for peer review of national QA agencies according to the *Standards and Guidelines for QA in the EHEA*. **Light green** means that a Quality Assurance system is in operation at national level, applies to all higher education, and has a quality assurance system that covers the three elements listed above, but nevertheless has no procedures in place for peer review of national QA agencies according to the *Standards and Guidelines*. **Yellow** means that a quality assurance system is in operation at national level, but it does not apply to all higher education. The quality assurance system covers at least one of the three elements listed above. **Orange** indicates that legislation or regulations on quality assurance of programs or institutions, including at least the first three elements, have been prepared but are not implemented yet OR implementation of legislation or regulations has begun on a very limited scale. **Red** means that no legislation or regulations on evaluation of programs or institutions with at least the first three elements OR that legislation is in the

	Green	Light green	Yellow	Orange	Red	Mean Score
6. Level of student participation ⁷⁶⁹	17 (6)	16 (9)	11 (14)	4 (7)	0 (7)	4.0 (yellow)
7. Level of international Participation ⁷⁷⁰	11 (12)	14 (16)	16 (6)	3 (9)	4 (0)	3.5 (light green)
Recognition of Degrees and Study Period Benchmarks [2007 Benchmarks (2005 Benchmarks)]						
8. Stage of implementation of diploma supplement ⁷⁷¹	25 (17)	7 (10)	14 (12)	1 (2)	1 (2)	4.1 (light green)
9. National implementation of the principles of the Lisbon Recognition Convention ⁷⁷²	31 (29)	5 (5)	1 (5)	3 (1)	8 (3)	4.0 (light green)

process of preparation. *Id.* at 21-22. The 2007 benchmark was revised; in 2005, green did not include peer review of quality assurance agencies. *Id.* at 23.

769. For Benchmark 6, in both 2005 and 2007, **green** signifies that students participate at four levels: (1) in the governance of national bodies for QA; (2) in external review of Higher education institutions and/or programs: either in expert teams, as observers in expert teams or at the decision making stage, (3) in consultation during external reviews; and (4) in internal evaluations. **Light green** means that students participate at three of the four levels. **Yellow** indicates that students participate at two levels. **Orange** means that students participate at one level. **Red** indicates that there is no student involvement or there is no clarity about structures and arrangements for student participation. *Id.* at 24.

770. For benchmark 7, **green** indicates that international participation takes place at four levels: (1) in the governance of national bodies for quality assurance; (2) in the external evaluation of national QA agencies; (3) as members or observers within teams for external review of higher education institutions or programs; and (4) membership in ENQA or other international networks. **Light green** means there is participation at three of these four levels. **Yellow** indicates participation at two of these four levels. **Orange** means participation at one of the four levels. **Red** means that there is no international involvement OR there is no clarity about structures and arrangements for international participation. *Id.* at 26. In 2005, green did not require "evaluation of quality assurance agencies." *Id.* at 27.

771. For benchmark 8, **green** indicates that every student graduating in 2007 will receive a diploma supplement in the EU/CoE/UNESCO diploma supplement format [hereinafter DS] and in a widely spoken European language automatically and free of charge. **Light green** means that every student graduating in 2007 will receive the DS in a widely spoken European language on request and free of charge. **Yellow** indicates that a DS in a widely spoken European language will be issued to some students or in some programs in 2007 on request and free of charge. **Orange** indicates that a DS in a widely spoken European language will be issued to some students or in some programs in 2007 on request but not free of charge. **Red** means that systematic issuing of a DS in a widely spoken European language has not started. *Id.* at 29. The 2005 benchmarks for green and light green were the same, but the others were more lenient. Orange required plans to introduce the DS or a pilot project, yellow required some students in some programs to receive the DS, and red was no activity. *Id.* at 30.

772. For benchmark 9, **green** indicates that the Lisbon Recognition Convention has been ratified; appropriate legislation complies with the legal framework of the

	Green	Light green	Yellow	Orange	Red	Mean Score
10. Stage of implementation of the ECTS [European Credit Transfer System] ⁷⁷³	27 (20)	9 (12)	6 (9)	6 (2)	0 (0)	4.2 (light green)
Lifelong learning and Joint Degree Benchmarks [2007 Benchmarks (2005 Benchmarks)]						
11: Recognition of prior learning (RPL) ⁷⁷⁴	17 ---	11 ---	9 ---	9 ---	2 ---	3.7 ---

Convention; and that the later Supplementary Documents have been adopted in appropriate legislation and applied in practice, so that the five main principles are fulfilled: (1) applicants have a right to fair assessment; (2) there is recognition if no substantial differences can be proven; (3) in cases of negative decisions the competent recognition authority demonstrates the existence of (a) substantial difference(s); (4) the country ensures that information on its institutions and their programs is provided; and (5) an ENIC has been established. **Light green** means the Convention has been ratified; appropriate legislation complies with the legal framework of the Lisbon Convention; and that the later Supplementary Documents have been adopted in appropriate legislation, but some amendments are still needed to apply in practice the principles of the Supplementary Documents. **Yellow** means that the Convention has been ratified and appropriate legislation complies with three or four of the five principles listed above. **Orange** means the Convention has been ratified and appropriate legislation complies with one or two of the five principles of the Lisbon Recognition Convention. **Red** signifies that the Convention has been ratified but appropriate legislation has not been reviewed against the legal framework of the Lisbon Convention or the Supplementary Documents OR the Convention has not been ratified. *Id.* at 31. This benchmark was not directly comparable with the 2005 benchmarks. For example, in 2005, it was possible to score yellow without having ratified the Convention. *Id.* at 32.

773. For benchmark 10, **green** indicates that in 2007, ECTS credits were allocated in all first and second cycle programs, enabling credit transfer and accumulation. **Light green** means that in 2007, credits were allocated in at least 75% of the first and second cycle Higher Education programs, using ECTS OR a fully compatible credit system enabling credit transfer and accumulation. **Yellow** signifies that in 2007, credits were allocated in 50-74% of higher education programs, using ECTS or a fully compatible national credit system enabling credit transfer and accumulation. **Orange** means that in 2007, ECTS credits were allocated in less than 50% of higher education programs that a national credit system was used that is not fully compatible with ECTS, or that ECTS was used in all programs but only for credit transfer. **Red** indicates that no credit system is in place yet. *Id.* at 33.

The 2007 benchmark was more demanding in all categories except red. For example, in 2005, **green** required ECTS use in most programs, **light green** required ECTS use in a limited number of programs, **yellow** was available if there was a nationally compatible plan in place, and **orange** was awarded if there were plans for future ECTS use. *Id.* at 34.

774. Benchmark 11 was entirely new in 2007. **Green** indicates that there are procedures, national guidelines, or policy for assessment of prior learning as a basis for (1) access to higher education programs, and (2) allocation of credits towards a qualification or an exemption from some program requirements. **Light green** means there are procedures, national guidelines, or policy for assessment of prior learning but they are used for only one of the purposes listed above. **Yellow** signifies that procedures, national guidelines, or policy for establishing assessment of prior learning

	Green	Light green	Yellow	Orange	Red	Mean Score
12: Establishment and recognition of Joint Degrees ⁷⁷⁵	32 ---	16 ---	0 ---	0 ---	0 ---	4.6 --

have been agreed or adopted and are awaiting implementation or that there are no specific procedures/national guidelines or policy for assessment of prior learning, but procedures for recognition of prior learning are demonstrably in operation at some higher education institutions or study programs. **Orange** indicates that implementation of recognition of prior learning is in a pilot phase at some higher education institutions or that work at drawing up procedures, national guidelines, or policy for recognition of prior learning has started. **Red** means that no procedures for recognition of prior learning are in place either at the national or at the institutional or program level. One of the difficulties of this new benchmark was that there was no common understanding of the meaning of “recognition of prior learning.” In some cases it was taken to mean only recognising qualifications achieved in other institutions. There were very few concrete examples of practice in national reports. *Id.* at 35.

775. For Benchmark 12, **green** indicates that legislation allows and encourages establishing joint programs and joint degrees. A number of higher education institutions have already established joint programs and are awarding nationally recognized degrees jointly with higher education institutions of other countries at all levels. **Light green** means there are no legal or other obstacles to establishing joint programs and the awarding and recognition of joint degrees or at least double or multiple degrees, but that either legislation does not specifically refer to joint degrees or that legislation for establishing joint programs and awarding and recognition of joint degrees has been prepared and agreed, but not yet implemented. **Yellow** signifies that there are no legal or other obstacles to establishing joint programs with Higher education institutions of other countries, but a degree is awarded in only one country after completion of the joint program. **Orange** means there are obstacles to establishing joint programs and awarding or recognizing joint degrees, but legislation or regulations are being drafted. **Red** reveals that there are no possibilities to establish joint programs, award and recognize joint degrees under current legislation and that there are no plans to change this situation. *Id.* at 37.

APPENDIX 3
TERRY SUMMARY OF KEY INFORMATION IN THE CCBE SURVEY⁷⁷⁶

CCBE Members and Observers (37 Jurisdictions Responding) ⁷⁷⁷	Q. 5a: Has the Bologna Process affected the law degree structure?	Q.5c: If you responded yes on 5a, is the introduction of the bachelor-master structure obligatory?	Q. 8: Is ECTS used for grading?	Q. 8: Is the ECTS used for crediting?
Total Affirmative responses	17 ⁷⁷⁸	12 ⁷⁷⁹	7 ⁷⁸⁰	13 ⁷⁸¹
Total Negative responses	9 ⁷⁸²	2 ⁷⁸³	11 ⁷⁸⁴	2 ⁷⁸⁵
Total responses that were ambiguous, conditional, non-responsive, or inapplicable	11	23	19	22

776. This Appendix provides the author's summary of the data contained in CCBE Training Committee, Draft Comparative Table: Information About Academic And Professional Training (Sept. 2005), http://www.ccbe.eu/doc/En/comparative_table_en.pdf (last visited Sept. 17, 2007)[hereinafter CCBE Survey]. As discussed in the text, *supra* note 732, this data was not always clear and required interpretation.

777. The thirty-seven jurisdictions included in the survey were: (1) Austria, (2) Belgium, (3) Cyprus, (4) Czech Republic, (5) Denmark, (6) Estonia, (7) Finland, (8) France, (9) Germany, (10) Greece, (11) Hungary, (12) Iceland, (13) Ireland (separate reports for Barristers and Solicitors), (14) Italy, (15) Latvia, (16) Liechtenstein, (17) Lithuania, (18) Luxembourg, (19) Malta, (20) the Netherlands, (21) Norway, (22) Poland (separate reports for the Bar council and legal advisors), (23) Portugal, (24) Slovak Republic, (25) Slovenia, (26) Spain, (27) Sweden, (28) UK-England and Wales (separate reports for barristers and solicitors), (29) UK-Northern Ireland (separate reports for barristers and solicitors), (30) UK-Scotland (separate reports for advocates and solicitors), (31) Bulgaria, (32) Croatia, (33) FYRO Macedonia, (34) Romania, (35) Switzerland, (36) Turkey, (37) Ukraine. Despite their separate reports for the different types of lawyers (e.g., barristers and solicitors), I counted Ireland, Poland, and each U.K. jurisdiction as one jurisdiction because of common education issues.

778. Question 5a, CCBE Survey, *supra* note 776, at pp. 26-29. The seventeen jurisdictions that I treated as providing an affirmative response to the question of whether the Bologna Process had affected their degree structure were: (1)Belgium; (2) Denmark; (3) Estonia; (4) Finland; (5) France; (6) Hungary; (7) Iceland; (8) Italy; (9) Luxembourg; (10) the Netherlands; (11) the Netherlands; (12) Norway; (13) Poland; (14) Slovak Republic; (15) Spain; (16) Croatia; and (17) Switzerland. I included in this list jurisdictions that indicated that changes had been made that would take effect at a future date.

779. Question 5c, CCBE Survey, *supra* note 776, at pp. 36-39. Five of the jurisdictions classified in note 778 *supra* as having provided a “yes” answer to question 5a did not clearly indicate whether the changes they cited were obligatory: (1) Denmark responded that the question was not applicable; (2) Latvia responded that you don’t need a masters to become a lawyer; (3) Luxembourg responded that the question was not applicable, although it noted that modifications would take place in 2005-2006; (4) Poland responded “not applicable” after having noted changes in its degree structure; and (5) Croatia, which noted that the bachelor-master system is obligatory since there is no bachelor degree as of October 2005. CCBE Survey, *supra* note 776, at pp. 37-39.

780. Question 8, CCBE Survey, *supra* note 776, at pp. 74-77. The seven jurisdictions that I treated as providing unconditional “yes” responses were: (1) Belgium, (2) the Netherlands, (3) Norway, (4) Slovak Republic, (5) Sweden, (6) UK-Northern Ireland, and (7) Croatia. I treated the Bulgaria, Czech Republic, Iceland and Swiss answers as ambiguous. I treated the Spanish answer as conditional since it stated that the credits are not yet equivalent to the ECTS.

781. *Id.* The thirteen jurisdictions that I treated as providing unconditional “yes” responses were: (1) Austria, (2) Belgium, (3) Finland, (4) France, (5) Hungary, (6) Italy, (7) Norway, (8) Slovak Republic, (9) Sweden, (10) UK-Northern Ireland, (11) UK-Scotland, (12) Croatia, and (13) Switzerland. I treated the answers from the Czech Republic, Iceland, Latvia, and Spain as providing qualified answers, rather than an unqualified “yes” because of comments made about the comparability of the credit system or other ambiguity.

782. Question 5a, CCBE Survey, *supra* note 776, at pp. 26-29. The nine jurisdictions that I treated as providing unconditional “no” responses were: (1) Austria, (2) Czech Republic, (3) Slovenia, (4) Sweden, (5) UK-England and Wales, (6) UK-Northern Ireland, (7) UK-Scotland, (8) FYRO Macedonia, and (9) Turkey.

783. Question 5c, CCBE Survey, *supra* note 776, at pp. 36-39. The two jurisdictions that I treated as having answered question 5a “yes” and providing an unconditional “no” response to question 5c about whether the changes were obligatory were: (1) Hungary, which stated that the bachelor-master structure is obligatory as of 2005-06, but legal education is exempt; and (2) Ukraine. I did not include Portugal in this column even though its answer was: “No. There is a Master degree-LLM- but that means a minimum of more 2 years studying and the discussion of a thesis at the end of the process.” *Id.* at 38-39.

784. Question 8, CCBE Survey, *supra*, at pp. 74-77. The eleven jurisdictions that I treated as providing unconditional “no” responses were: (1) Austria, (2) Finland, (3) France, (4) Germany, (5) Greece, (6) Hungary, (7) Italy, (8) Latvia, (9) Slovenia, (10) UK-Scotland, and (11) Turkey. Because Liechtenstein stated “no law degrees in Liechtenstein” in response to question 5a, I included its “no” response in the “inapplicable” column. *Id.* I did not treat the response from UK-England and Wales as an unconditional no response since it indicated that the decision was left to the university. *Id.* I also treated Estonia’s “no” response as conditional since it indicated that changes would take effect on January 1, 2006. *Id.*

785. *Id.* at pp. 74-77. The two jurisdictions that I treated as having an unconditional “no” response were: (1) Slovenia and (2) Turkey. Because Liechtenstein indicated in question 5a doesn’t have law degrees, I included its “no” response in the “inapplicable” column. *Id.*