TOWARDS A FRAMEWORK FOR HIGHER EDUCATION, RESEARCH AND INNOVATION IN THE EUROPEAN UNION

'The world needs more Europe'.

(Commission President-elect Ursula von der Leyen, European Parliament, 16 July 2019)

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Executive Summary

In a world of rapid changes, immeasurable challenges and threats, but also of incredible opportunities and chances, education as an emancipatory promise and research as the basis for innovation for the well-being of society, are more crucial than ever before. It is imperative that we meet these challenges through the creation of a stronger EU-frame for higher education, research and innovation.

While much has already been achieved, the EU should act now to tackle issues such as accessibility, threats to academic freedom, integrity, (EU) citizenship education, quality assurance, lifelong learning, recognition of qualifications and portability of student financial support. More generally, the role of higher education in developing good citizenship and inquisitive minds, and research as the search for knowledge to advance the well-being of society risks being narrowed as a result of overemphasis on labour market outcomes and industry-driven valorisation goals.

This paper explores options for an ambitious programme for education, research and innovation. The focus is on two big policy areas in which the EU is heavily involved or in the lead: The European Higher Education Area (EHEA) and the European Research Area (ERA).

Relying on the dual mandate of Article 165 and 179 TFEU, the EU Charter of Fundamental Rights and generally applicable EU principles, we suggest the building of a more solid legal framework for higher education, research and innovation in a staggered approach along three prongs of interrelated and simultaneous lines of inquiry:

1. Identify and elaborate: establishing a core set of European values, norms and goals in higher education, research and innovation;
2. Review and renew: the EU Higher Education, Research and Innovation Acquis as a reference framework and toolbox for further development ('Framework Acquis');
3. Moving forward: adopting one or more 'Framework Directives' to ensure shared commitment toward common goals.

Neither the Framework Acquis, nor the Framework Directive(s) are inevitably a single body of law. Rather, what is proposed here is a content process towards a framework and toolkit, comprising the full continuum of soft and hard legal instruments, to integrate and foster the higher education, research and innovation policy areas as a service to the Member States, their institutions, citizens and residents: a common narrative on education, research and innovation. It should also serve as an instrument for communication on themes and issues in higher education and research – also to the general public – and to enhance the coordination and co-creation of national and institutional policies.

1. Introduction

In a world of rapid changes, immeasurable challenges and threats, but also of incredible opportunities and chances, education as an emancipatory promise and research as the basis for innovation for the well-being of society, are more crucial than ever before. We need to meet these challenges head-on and for that a stronger EU-frame for higher education, research and innovation is imperative.

Progress towards one European education-, research- and innovation-area has slowed down. The Education and Training Monitor 2018 and the Bologna Implementation Report 2018 show that while there is improvement, much work remains.[1] In the European Research Area 'major disparities still exist between countries, or are growing in part'.[2] Stronger commitment and investment are paramount for a robust and well-functioning EU research community.[3]

Serious effort is needed to tackle issues such as accessibility, threats to academic freedom, (EU) citizenship education, quality assurance, lifelong learning, recognition of qualifications and portability of student financial support. More generally, the role of higher education in developing good citizenship and inquisitive minds, and research as the search for knowledge to advance the well-being of society risks being narrowed as a result of overemphasis on labour market outcomes and industry-driven valorisation goals. Coupled with this, the promise of education as a motor for social mobility in the EU has in more recent years delivered uneven results.[4]

Externally, the international order has shown itself be more vulnerable than until recently could be forecast. A strong education and research policy will bolster economic performance, but more importantly also ensure a cohesive and self-aware EU bloc, better able to protect, maintain and develop European values for the well-being of its citizens and residents..
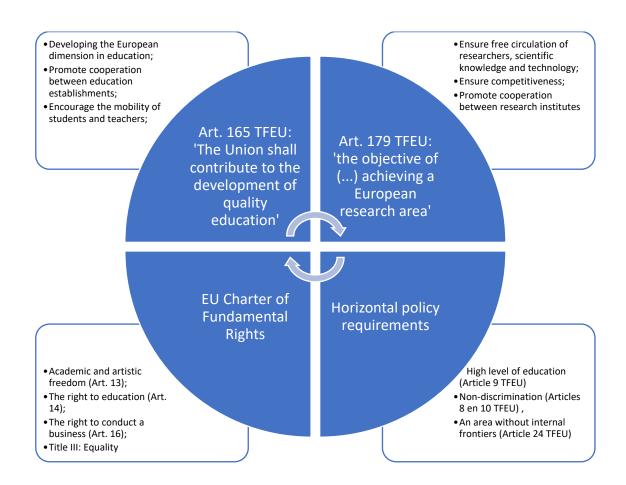
This paper explores options for an ambitious programme for education, research and innovation. The focus is on two big policy areas in which the EU is heavily involved or in the lead: The European Higher Education Area (EHEA) and the European Research Area (ERA).

2. An integrative and inclusive approach to education, research and innovation

An ambitious policy requires an integrative approach. This means including and mainstreaming research and innovation policies in higher education policies and vice versa,[5] but also embedding European values and goals of inclusiveness, solidarity and accountability throughout. In addition, such policies should include a stronger international component by focusing on and facilitating pan-European cooperation efforts, inter alia by deepening the European University Initiative both in the institutional sense (e.g. by creating a legal framework for transnational universities rather than networks) and widening its remit to include a stronger component on cooperation on cross-border collaboration in innovative, curiosity-driven and 'disruptive' research. It moreover requires embracing new modes of knowledge transfer to foster innovation across the three policy areas.

3. Mandate

The EU has a strong mandate to act in the areas of education, research and innovation for the benefit of its citizens and residents. This mandate flows directly from articles 165 and 179 TFEU, the goals of which are mutually reinforcing and cannot be pursued in isolation from each other.[6]

- Developing the European dimension in education;
- Promote cooperation between education establishments;
- Encourage the mobility of students and teachers;

Art. 165 TFEU: 'The Union shall contribute to the development of quality education'

- Ensure free circulation of researchers, scientific knowledge and technology;
- Ensure competitiveness;
- Promote cooperation between research institutes

Art. 179 TFEU: 'the objective of (...) achieving a European research area'

EU Charter of Fundamental Rights

Horizontal policy requirements

- Academic and artistic freedom (Art. 13);
- The right to education (Art. 14);
- The right to conduct a business (Art. 16);
- Title III: Equality

- High level of education (Article 9 TFEU)
- Non-discrimination (Articles 8 en 10 TFEU) ,
- An area without internal frontiers (Article 24 TFEU)

4. Instruments

The EU has acted on this mandate by establishing an impressive array of funding instruments, policies, principles, frameworks, codes and exchanges of good practice.[7]

The most well-known EU funding programmes are Erasmus+ and the Horizon 2020 Framework Programme for Research and Innovation ('Horizon Europe' upcoming). Substantial funding for education, research and innovation also comes from other EU sources, notably the European Structural and Investment Funds (ESIF) and the European Investment Bank (EIB).

The instruments relied upon to shape the education and research within the EU range from hard law, to policy recommendations, to softer tools of convergence.

Type	Examples
Legislative	- Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications - Regulation (EU) No 1257/2012 of the European Parliament and of the Council of 17 December 2012 implementing enhanced cooperation in the area of the creation of unitary patent protection
Policy recommendations	- Recommendation of the European Parliament and of the Council of 15 February 2006 on further European cooperation in quality assurance in higher education - Commission Recommendation of 11 March 2005 on the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers ('Charter & Code')
Codes and guidelines	- ECTS Users' Guide (2015) - European Charter for Access to Research Infrastructures. Principles and Guidelines for Access and Related Services (2016)

5. Policy umbrellas

EU policies and instruments are traditionally grouped under policy umbrellas, some of which have a longer shelf life than others. In our field the most comprehensive umbrellas in recent years have been:

- The Innovation Union as one of the seven Flagships of the 2010 Lisbon Strategy for smart, sustainable and inclusive growth;
- The renewed EU agenda for higher education (2017).

In addition, the European Commission has published in 2017 the Communication *'Strengthening European Identity through Education and Culture'* aimed at establishing a European Education Area, which included the Macron initiative' of establishing a series of network-based European Universities. The present paper focuses on the two policy umbrellas that have the most direct impact on education, research and innovation practice:

- European Area for Higher Education (EHEA or 'Bologna Process')
- European Research Area (ERA).

6. European Higher Education Area (Bologna process)

The priorities of the Bologna process are:

- A three-cycle system compatible with the overarching framework of qualifications of the EHEA and first and second cycle degrees scaled by ECTS
- Compliance with the Lisbon Recognition Convention

- Quality assurance in compliance with the Standards and Guidelines for Quality Assurance in the European Higher Education Area.

The Bologna process is formally an intergovernmental process governed by the Ministers responsible for higher education in the 48 Signatory States of the Cultural Convention of the Council of Europe. De facto the EU has a strong role to play in the process. The renewed EU agenda for higher education (2017) encompasses the Bologna priorities and most of the Bologna actions lines were born out of the Erasmus programme (e.g. mobility, ECTS and joint degrees) or derived from EU Recommendations adopted prior to (e.g. on quality assurance) or in parallel with decisions of the Bologna Ministerial Conference (e.g. on accreditation and qualifications frameworks).

7. European Research Area (ERA)

The priorities of the European Research Area[8] are:

- Effective national research systems
- Optimal transnational cooperation and competition, including 'jointly addressing grand challenges' and 'research infrastructures'
- An open labour market for researchers
- Gender equality and gender mainstreaming in research
- Optimal circulation, access to and transfer of scientific knowledge, including 'knowledge circulation' and 'open access'
- International cooperation.

The European Research Area (ERA) is governed directly by the EU through interplay between the European Commission and the Member States, with consultative status for stakeholders (cooperation agreements on commitments).

8. Legal analysis

All EHEA and ERA priorities listed above have legal aspects and they are, to varying degree, based on articles of the Treaty, be it article 165 (mentioning mobility, recognition and quality), be it article 179 (mentioning European Research Area and free circulation) or be it other, mostly horizontal articles. Actions taken by the EU under EHEA and ERA are strongly interrelated (e.g. mobility or open recruitment for teachers and researcher) and so are their legal bases and their ramifications. These articles can be relied upon to pursue ambitious aims while fully respecting the prerogatives of the Member States with a view to enhance, support and promote, and secondly to protect European values in and concerning education and research. The 'no harmonisation' rule in education should not be read to mean 'no action'.

Similarly, more generally oriented articles such as Articles 114 and 115 TFEU provide the EU with the competence to act where the educational goal to be achieved contributes to the functioning of the internal market, by removing obstacles or distortions of competition. A

potentially powerful tool for developing education and research *areas*.[9] In addition, where action directly impacts on EU citizen's rights to cross borders, Article 21(2) TFEU provides a solid option.

It goes beyond the scope of this paper to address these legal bases for (thematic, sub-thematic, or more integrated) EU intervention in detail. A more comprehensive approach is taken in a companion paper entitled Legal bases for EU policies in education, research and innovation.

9. Towards a legal framework - a staggered approach

We propose to explore the building of a more solid legal framework for higher education, research and innovation in a staggered approach along three prongs of interrelated and simultaneous lines of inquiry:

1. Identify and elaborate: establishing a core set of European values, norms and goals in higher education, research and innovation.
2. Review and renew: the EU Higher Education, Research and Innovation Acquis as a reference framework and toolbox for further development ('Framework Acquis')
3. Moving forward: adopting one or more 'Framework Directives' to ensure shared commitment toward common goals.

Neither the Framework Acquis, nor the Framework Directive(s) are inevitably a single body of law. Rather, what is proposed here is a content process towards a legal toolkit to integrate and foster the European Higher Education, Research and Innovation Area as a service to the Member States, their institutions, and citizens and residents, as well as an instrument for thematic communication on policy issues in higher education and research – also to the general public – and to enhance the coordination and co-creation of national and institutional policies.

1) A code of shared understanding of boundaries and priorities

A serious inquiry should be undertaken to find common values, norms and goals for an EU higher education, research and innovation policy. This requires elaborating concepts such as inclusiveness, accessibility, solidarity, accountability, academic freedom and ethics and integrity in education and research. Having a code of shared understanding of boundaries and priorities ensures that policymaking in these areas remains responsive foremost to (the needs of) society, citizens and residents.

2) The EU Higher Education, Research and Innovation Acquis

This 'EU Higher Education, Research and Innovation Acquis' (hereinafter 'Framework Acquis') would recognise and incorporate the existing corpus of higher education, research and innovation policy at the EU and Member State level. Gaps and overlap should be identified and reviewed. Taken together, the Framework Acquis would function both as a

<u>reference framework</u> for the policy orientation of the EU and the Member States as well as a tool box for further development of these policies, making use of the full range of existing EU instruments of hard and soft law, notably: Opinion, Advice, Guideline, Recommendation, Declaration, Decision, Budget, Directive, Regulation.

The deployment and articulation of an ambitious set of soft instruments could, in due course, be complemented by a hard legal instrument (a so-called framework directive) or when deemed more appropriate, by adopting additional legislation on specific issues.

As a framework, the 'Framework Acquis' would provide a set of principles which are simultaneously capable of emancipating the various actors (such as higher education and research institutes, researchers, other academic staff and students) from their entrenchment in a system which is still primarily nationally oriented, while reinforcing their capacity to deliver and receive high quality and inclusive education and to conduct innovative research.

As a toolbox, the 'Framework Acquis' should set out a roadmap, including various policy options complete with suggestions for legal bases and instruments. It also requires the articulation of an overarching vision for the application of the principles of subsidiarity and proportionality to issues of education, research and innovation and the articulation of clear responsibilities on the part of the EU and its Member States in the implementation of the various goals and aims set out therein.

3) A Framework Directive for Education, Research and Innovation

A Framework Directive would not be that different in content. The difference would lie in the fact that it would demonstrate a stronger commitment of all actors and notably Member States. The Framework Directive would create a climate of trust, stability and predictability in which education, research, innovation can flourish.

Brexit and the permanent threat of trade wars demonstrate how important trust and predictability are for our societies and our economies. The Framework Directive would provide an anchor of stability in a turbulent world, a truly European trademark that would enhance capacity of the EU to deliver on European values, norms and goals for its citizens, residents as well as its partners and allies, locally and globally.

In legal terms, the Framework Directive would lay down the obligation for the EU and the Member States to refrain from doing anything that would be detrimental to the implementation of the commitments already made under EHEA and ERA.

10. Scope and draft outline

'The Framework Acquis', respectively 'Framework Directive', would aim to cover <u>all priorities</u> of the European Higher Education Area (Bologna Process) and the European Research Area (ERA) as listed in sections 6 and 7 of this paper. In order to ensure a coherence in action in these areas these the 'Acquis' and the 'Framework Directive' would contain a number of *Goals, Principles, Instruments, Actors, Actions*.[10]

By articulating all the elements above and seeking political commitment to their implementation, the EU and its Member States can work towards <u>mutual understanding, learning, trust, impact and – ultimately - enforceability</u>. The following elements should be considered.

A. Bill of rights and targets for their realisation

As point of departure, the common legal framework should specify the rights of various actors including national governments and local authorities, education and research institutes, professors, teachers and researchers, students, and society at large. Inspiration could be drawn in this respect from articles 13, 14 and 16 of the EU Charter and the case law of the Court of Justice.

This bill of rights can then serve as a basis to challenge policy choices of Member States that, in the spirit of loyal cooperation as enshrined in Article 4(3) TEU, jeopardise the attainment of the education, research and innovation objectives set at the EU level.

However, this bill of rights should be coupled with targets, indicators and benchmarks for positive action to make these rights a reality, inter alia on the following:

- Targets on accessibility and inclusivity of higher education, as well as enrolment in research programmes;
- Promotion and standards of multilingualism in (higher) education;
- Commitment to and benchmarking of the implementation of the European Charter for Researchers and a Code of Conduct for the Recruitment of Researchers;
- Progress towards the implementation of the indicators for the European Research Area and the Innovation Scoreboard
- Etc.

These should be integrated into a single report and could be included in the European Semester review.

B. Promoting good governance and good practices

Good governance requirements, if designed well and implemented properly, foster an environment and culture that ensures that education and research institutes remain responsive and committed to their overarching mission and take due account of the various values and interests that must be balanced.

The EU should take the initiative to bring together Member States as well as education and research institutes – making full use of the networks that are forming in the context of the 'European universities' - with a view to developing an EU-governance code. This code can serve as inspiration and benchmark and should include elements such as:

- Values reflecting the commitment to the purpose of education and research institutes to provide knowledge, foster civic responsibility and stimulate personal development;
- Recognition that the institutes are responsible for upholding and promoting (respect for) fundamental rights;

- Rules on the division of powers among institutional actors, including staff and students, coupled with appropriate checks and balances;
- Definition of the respective tasks and responsibilities of the actors vis-à-vis the mission and each other;
- Eligibility rules designed prevent conflicts of interest among key decision-making staff;
- Principles of financial and fiscal responsibility as well as proper management and disbursement of public funds;
- Guidance for a voice for the regular involvement of stakeholders, such as local government and public and private employers;
- Requirement to adopt an 'inclusivity charter': a publicly available document in which education and research institutes set out and commit themselves to policy action to ensure access for persons from disadvantaged or minority backgrounds, persons with disabilities and persons identifying as LGBTI.

Supplementing this Good Governance code, should be a code of Good Practice with respect to ethics in education and research, student selection, researcher recruitment, infrastructure sharing in joint research projects and use of open access standards. This should build on and incorporate existing Charters and Codes.

C. Institutional autonomy, academic freedom, fair funding and allocation.

Good governance is a multilevel issue. Not only is it required at the level of the institutions, but also in the relationship between the institutions and the State. An adequate balance must be struck between the institutional autonomy of education and research institutes with effective supervision to ensure the protection of public values.

Attempts by the various Member States to strike that balance, and the means and methods used are to be respected. It is not for the EU to impose a straightjacket in this respect. However, there is added value in ensuring that the process satisfies certain basic criteria:

C1. Effective and fair funding

The EU should consider setting funding targets for education based on agreed percentages of GDP for (public) expenditure on higher education and research. This should be coupled with yearly scrutiny of the actual cost of education and research conducted, and its development over time. Such scrutiny should not be an excuse to impose restrictive cost/quality targets, but rather be undertaken as a means to adjust and allocate funding to stimulate and reward policies of inclusiveness, accessibility or other efforts undertaken in the public interest.

In addition, effective and fair funding requires transparency and responsiveness of the process. Allocation of funds should be based on clear, objective and non-discriminatory criteria reflecting the respective positions of the recipients rather than historically grown entitlements of institutions. Similarly, principles of transparency and accountability should govern internal allocation of funds.

Finally, stability in funding should be ensured: competitive models of financing education and research have significant drawbacks[11] and can lay great claims on administrative and

academic attention better used elsewhere. The EU should support and where necessary design best practices in this respect.

C2. Equal treatment, academic freedom and freedom to pursue diverse education philosophies

Academic and educational freedom is a foundational right.[12] At a minimum it requires state authorities to respect diverse education and research philosophies. The EU & the Member States must ensure that education and research institutes are protected from arbitrary intervention or singled out for political purposes. In part, such principles are enshrined in the Charter of Fundamental Rights of the European Union, but it also requires especial vigilance and the responsibility to effectively enforce these principles. Education and research policy cannot thrive without justice, rule of law, legality and solidarity.

However, the duty towards these institutions does not stop there. One-sided demands for labour market-skills, pressure on students to finish education as soon as possible, excessive emphasis on valorisation in research and involvement of business interests undermine experimentation in education, threaten the humanities and curiosity-driven research. At the same time, education and research should remain responsive to the needs of society. Robust policy action is needed and should form part and parcel of the framework to ensure the appropriate balance between academic freedom and societal responsibility.

C3. Decentralisation & subsidiarity

An education and research area capable of adopting innovative ideas and responding to changes in labour market trends and/or other challenges requires a degree of leeway and flexibility, and thus trust from the central government. Where clear rules on quality assurance, monitoring of the pursuit of interests and effective supervision ensuring adherence to principles of good governance are in place, intervention from the central level as to the means and methods of pursuing these tasks can remain limited and facilitating. Subsidiarity as a legislative principle should not just govern the relationship between the EU and the Member States, but also be applied to Member States in their relationships with the education and research institutes. This being said: whereas subsidiarity is a valuable principle, it is not cast in iron as there is also substantial value in free and borderless movement, equal rights, cooperation, legal certainty and harmonisation.

D. Free circulation of students and researchers

Education and research opportunities within the EU must be open and accessible to all, without regard for nationality. This requires serious attention as such mobility is not a luxury good: it allows students to follow courses that better match their interests and capacities, stimulates further educational attainment and the acquisition of soft skills (such as language learning), exposes them to diverse academic traditions and international classrooms and promotes a sense of European identity and citizenship.[13]

As costs remain the main hurdle[14] in order to make use of these opportunities, further policy action is needed to complete the Erasmus scheme, for example in border regions and to

promote inclusive degree mobility (through full portability of student grants, or an encompassing EU student lending system).[15]

Similarly, various obstacles also exist in the mobility and exchange of researchers within the EU. Issues relating to residence, access to flanking benefits or social security as well as pension rights may render free movement less attractive. The EU should take the opportunity to devise a comprehensive early-career research policy to ensure a fairer recruitment process, better access to research opportunities and firmer embeddedness into the hosting society.

E. Ethics, trust, quality and external guarantors.

A final important point is the need for European standards on quality assurance, accreditation and the issue of (joint/double) degrees. As noted in the introduction, in an era of fake news and declining trust in expertise, it is paramount that educational quality within the EU be shored up with a view to produce critically thinking students, researchers and citizens. European standards on this point is a keystone element in building mutual trust in education systems, recognition of qualifications and cross-border labour market but also in (re)building trust in institutions, state and expert advice.

Such effort should be integrated through the creation of a of a European Education and Research Agency modelled on the recently created European Labour Authority and building on initiatives such as European Quality Assurance Register in Higher Education. Its primary tasks could be:

- To function as a resource centre for students, education and research institutes and Member States, merging the work of CEDEFOP, EURYDICE and EURAXESS;
- To support Member State authorities engaged in academic and professional recognition of diploma's;
- To manage the suggested EU student financing system;
- To set European-wide quality standards and to develop common academic and professional descriptors;
- To assist and coordinate national and transnational accreditation institutes in carrying out quality control;
- To support cross-border cooperation initiatives in education and research;

11. Conclusion

The EU has a responsibility to its citizens and residents to create functioning EU education and research area that delivers quality education, research and innovation opportunities. Policy action in this area is not a luxury. It is a necessity. Education and research policy is a keystone in the overarching mission of the EU to 'promote peace, its values and the well-being of its peoples.'

Whereas the current brick-by-brick approach has resulted in some important achievements, it is time to consider the overall structure with a view to taking larger steps. Drawing upon the innovations and diversity of the Member States of the EU, a common legal framework is needed in order to create more coherent and effective policy results, including the further

implementation and development of the 'European University', as this initiative should not remain an experiment.

It seems paradoxical, but to stop further centralisation education and research institutions need to supra-nationalise to a certain extent to have their freedoms and those of its staff, students and societies secured. In a European regulatory framework, they would be also protected by the European Court of Justice. Legislating for a European framework is indispensable for higher education and research in the Member-States of the European Union and for the European economy in general. Yet, this is also necessary for geostrategic and geo-economic reasons. A stronger EU-frame that fosters and protects European institutions, especially in higher education and research, is an essential and urgent part of Europe's (political) defence mechanisms and its economic security and would maintain democracy, European values and prosperity in our relation to mightier blocs. For the Four Freedoms and EU citizenship, for high quality higher education and innovative research, and a strong, inquisitive and critical citizenry. Not only as a goal in itself. We need the four freedoms of the EU and we need to reinforce them. Open borders and a Union founded on human dignity, freedom, democracy, equality, the rule of law and respect for human rights requires a next step to serve the citizens and residents of Europe better, visibly and directly through a common narrative on education, research and innovation. An 'Area' alone is not enough. What is needed is a robust European Acquis as a framework and toolkit for (national) legislation on higher education, research and innovation.

Overview

Outline and elements for a legal framework for education, research and innovation: Goals, Principles, Instruments, Actors, Actions, Rights and Obligations
1. Goals
To build a robust EHEA/ERA capable of delivering, supporting and protecting high quality education and research opportunities for EU citizens and residents; To establish a common set of European values, norms and goals as boundaries and priorities for higher education, research and innovation polices; To set out rights, duties and responsibilities of students, researchers, educational establishments, research institutes, local authorities and national governments and the EU; To ensure credible commitment of the EU and the Member States to common goals in recognition of the contribution of education and research to emancipation, self-development, the betterment of society and economic prosperity.
2. Principles
The project is founded on a mutually reinforcing and integrated policy cycle: ambitious use of the dual mandate of Articles 165 and 179 TFEU, the mainstreaming of horizontal EU policies and values, and incorporation of the principles of the EU Charter of Fundamental Rights. Simultaneously, the project requires taking due account of the primacy and specific traditions of Member States in education and research policy (cfr. Article 4(2) TEU) and the general principles of EU action such as in particular the principle of conferral, subsidiarity and proportionality.
3. Instruments
The leading principle of this undertaking is 'commitment, agreements and convergence where possible, legislation where necessary'. As such, the full toolbox of Opinion, Advice, Guideline, Recommendation, Declaration, Decision, Budget, Directive, Regulation should be used.
4. Actors
Depending on the topic the following stakeholders should be involved, both as part of the consultation for draft policy and legislation and in the execution and monitoring thereof: - Students (including student unions and other organisations)**, r**esearchers (including representative organisations)**, u**niversities, higher professional educational establishment, research institutes**, l**ocal authorities (municipalities, **(transnational)** regions), **t**he Member States; The EU and EU institutions, including A European Education and Research Agency.
5. Actions (and some ingredients of the Framework Acquis)
➢ The elaboration of a code of shared understanding of founding elements of higher education, research and innovation policies; ➢ The creation of a 'bill of rights' for participants and stakeholders in education and research coupled with targets for their realisation; ➢ The adoption of an EU 'Education and Research Good Governance Code and Good Practices in ethics in education and research, as well as regarding student selection and researcher recruitment, infrastructure sharing and cross-border projects; ➢ The adoption of EU policy on higher education and research funding; ➢ An integrated regime, including funding, for the free movement of students and researchers in the EU beyond short stay; ➢ The establishment of a European Education and Research Agency as a resource and expert centre, fulcrum for the development quality standards, academic and professional descriptors and provision of support for innovation in national higher education and research policy.

Endnotes

[1] European Commission, Education and Training Monitor 2018, (Publications Office of the European Union, 2018) and European Commission/EACEA/Eurydice, 'The European Higher Education Area in 2018, (Publications Office of the European Union, 2018).

[2] European Commission, European Research Area: Progress Report 2018, (Publications Office of the European Union, 2019), p. 3-4.

[3] Eurostat, 'First Estimates of Research & Development Expenditure', News release of 10 January 2019. Hugo Hollanders et al., European Innovation Scoreboard 2019, (Publications Office of the European Union, 2019). Also: European Commission, A renewed agenda for Research and Innovation: Europe's chance to shape its future, (Publications Office of the European Union, 2018).

[4] Eurofound, *Social mobility in the EU*, (Publications Office of the European Union, 2017), p. 70-72, OECD, The Socio-economic Divide in Europe, (Centre for Opportunity and Equality, 2017) and OECD, A Broken Social Elevator? How to Promote Social Mobility, (OECD Publishing, 2018).

[5] See K. Deketelaere and K. Maes, An Era of Change: LERU Briefing Paper for the EU Institutions, (LERU, 2014), p. 23.

[6] See Article 165 and 179 Treaty on the Functioning of the European Union.

[7] See for an overview the paper '*Legal instruments in support of EU policies in education, research and innovation'*, Milano September 2019, Fausto Comandé et al.

[8] COM(2012) 392 final, A Reinforced European Research Area Partnership for Excellence and Growth, 17 July 2012.

[9] See S. Garben, *EU Higher Education Law: The Bologna Process and Harmonization by Stealth, (Wolters Kluwer, 2011)*.

[10] See elaborately: P. Kwikkers, 'A Staggering Pitch: The European Framework Law for Higher Education and Research'. Alphen aan den Rijn, July 2018. https://www.triasnet.nl/publicaties/alles Publication 109.

[11] See e.g. the conclusions in chapter 9 of the comprehensive review conducted in Sweden in SOU 2019:6, En långsiktig, samordnad och dialogbaserad styrning av högskolan.

[12] See e.g. Article 26 Universal Declaration of Human Rights and Article 13 International Covenant on Economic, Social and Cultural Rights. See also European Parliament, Resolution on freedom of education in the European Community, OJ [1984] C 104/69.

[13] See for a review of the literature on this point: A. Hoogenboom, *Balancing Student Mobility and National Higher Education Autonomy in the European Union*, (Brill, 2017), chapter 2.

[14] (Uncertainty about) Cost is cited as the biggest reason not to participate: See e.g. European Commission, The Erasmus Impact Study, (Publications Office of the European Union, 2014), p. 75.

[15] The feasibility of such a system was confirmed in a study commissioned by the EU: EAC-2009-5253-000-001, Feasibility study on student lending, (LSE Enterprise, 2009). Unfortunately the Erasmus+ implementation has been limited.