

Prof. Dr Miroslav Bobrek
Director
Higher Education Accreditation Agency of Republika Srpska (RS HEAA)
1 Vuk Karadzic St., BA – 78000 Banja Luka
Bosnia and Herzegovina

Bern, 26 February 2018

Subject: RS HEAA's appeal to ENQA and decision on RS HEAA's membership in ENQA

Dear Prof. Dr Bobrek,

I am writing to inform you of the outcome of the ENQA Board's decision of 22 February 2018 regarding the appeal RSA HEAA lodged against the ENQA Board's decision of 13 September 2017 not to grant RS HEAA membership due to insufficient overall level of compliance with the ESG.

On 28 November 2017, RS HEAA submitted an appeal against this decision. In a letter of 11 December 2017 the President of ENQA informed the ENQA Appeals and Complaints Committee (hereafter: ACC) of the appeal, requesting the ACC to review the Board's decision. Enclosed in the President's letter to the ACC were:

- The ENQA Board's decision letter to RS HEAA dated 29 September 2017
- RS HEAA's letter of appeal dated 28 November 2017
- The scrutiny report of ENQA's Review Committee
- The expert panel's review report

The ACC gave their statement to the ENQA Board on 15 February 2018 in which the committee recommends the Board to reject the appeal and stand by its initial decision not to grant RS HEAA membership at this stage.

Following this, the Board took a decision at its meeting on 22 February 2018, in which it follows the statement of the ACC i.e. the Board rejects RS HEAA's appeal and stands by its initial decision not to grant RS HEAA membership in ENQA. At the same time, the Board acknowledges and agrees with the observations of the ACC concerning ESG 3.4 Thematic analysis: Although it is clear that this area overall does require a more systematic development in the future, it can be concluded that partially compliant is a more appropriate judgement than non-compliant for this standard.

According to the Rules of Procedure of ENQA, the decision of the ENQA Board is final and non-appealable. Should RS HEAA wish to re-apply for ENQA membership in the future, this can be done in two years' time from the Board's initial decision.

Please find the summary of the ACC's findings as an appendix to this letter. This letter will be published on the ENQA website together with the final review report as well as the Board's initial decision.

For any questions, do not hesitate to be in touch with the ENQA Secretariat.

Yours sincerely,



Christoph Grolimund
President

Annex: Summary of findings

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The ACC concluded that the decision of the ENQA Board should stand in the context of evidence provided and evaluated against the appropriate criteria, standards and guidelines (ESG) with the exception of ESG 3.4 which ACC considered to be closer to partially compliant than non-compliant.

ESG 3.3 Independence

The Review Panel's statement

The panel recommends that the agency should discuss with the government enhanced arrangements for securing the operational independence of the agency and for promoting improved cooperation with the HEA. RS HEAA Steering Board should review the role of the Accreditation Council to clarify its remit and responsibilities. The panel also highlighted concerns about the complementarity of the Framework Law on Higher Education (FLHE) that applies across Bosnia and Herzegovina and the local law for Republika Srpska. There is also a range of other concerns about the operational independence of the agency highlighted in the report. The overall finding of the panel is partially compliant.

ENQA Review Committee's statement (scrutiny report)

The Review Committee members agree with the panel's judgement of partial compliance. The scrutiny report referenced the fact that special attention should be paid to secure full independence of decision making, as *"The Accreditation Council [...] includes three members of Agency staff"*.

The Board's statement

The Board is of the opinion that RS HEAA should work further on strengthening its organisational as well as operational independence as recommended by the panel. The Board repeats panel's recommendation and agrees with the outcome of partial compliance.

RS HEAA's appeal response

The RS HEAA's appeal argues that the complementarity of the laws was *"confirmed within the legal procedure by jurisdictional institutions."* It says that *"[...]there are many other cases at quality assurance agencies where the director is appointed by the Government which is not the only funder of the Agency, the accreditation process is financed by the higher education institutions unlike some European agencies where the complete process is financed by the Government[...]. Even if this was a case, it shouldn't be recognized as a threat to independence."* RS HEAA says many countries operate in small HE systems and RS HEAA *"does everything in its power to offset any potential conflict of interest - no actual case was indicated, and no stakeholder raised this as an issue"*.

ACC's assessment

The review panel raises concerns (across a few of the ESG standards not just ESG 3.3) about the limitations on the operational independence and refers to matters such as:

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- Relationship between the HEA and RS HEAA (due to administrative and political misunderstandings and confusion about the responsibilities for the management of QA processes):
 - which infringes upon an ability for RS HEAA to demonstrate full responsibility and impact;
 - and affects the cooperation required in the selection and appointment of experts to review panels.
 - The appointment by the Government of the Director and Deputy Director of RS HEAA;
 - The composition of the Steering Board of five members, four of which represent academic community and also appointed by the Government;
 - The complementarity of the framework law of higher education and the local law for Republika Srpska;
 - The full independence or objectivity of decision-making, as the Accreditation Council includes three members of agency staff.

The ACC concluded that this standard is very thoroughly elaborated by the review panel. The issues cited above indicate that independence is clearly undermined. The ACC acknowledges the fact that RS HEAA works in a special national setup and legal regulatory environment and there are elements related to its independence that are not in RS HEAA's direct power to determine or change. However, ACC concludes that partial compliance is justified under this ESG.

ESG 3.4 Thematic analysis

The Review Panel's statement

The panel recommended that, as part of its strategic planning, the agency should consider how it could review the outcomes from its quality assurance activities and make the analysis available to all relevant stakeholders. The panel placed emphasis on the non-systematic approach towards thematic analysis to date and the fact that evidence provided was not available in English. Reference was also made to the fact that a complete review cycle had not been completed with only 12 of the 22 institutional accreditations and that regular thematic reports can be a more general challenge for small higher education systems with reviews spread over a 5-year cycle. The panel concluded that RS HEAA is non-compliant with this standard.

ENQA Review Committee's statement (scrutiny report)

The Review Committee members raised some questions whether the report provides enough evidence to justify the judgement of non-compliance. At least one Review Committee member (out of three) thought that partial compliance might be more appropriate.

The Board's statement

The ENQA Board agreed with the panel's judgement of non-compliance and repeated panel's recommendation *"As part of its strategic planning, the agency is recommended to consider how it could review the outcomes from its quality assurance activities and make the analysis available to all relevant stakeholders"*.

RS HEAA's appeal response

The response refers to periodic reports on the higher education system of Republic Srpska with particular accent on quality assurance and findings of the accreditation processes. *“Given the size of the higher education system and quality assurance activities, this extensive report is made every two years. During the on-site visit the Agency presented two of these reports (2012 and 2014) in English language and the one for 2016 was being prepared since it was the beginning of the year. The reports were publicly available in both Serbian and English versions. [...]there were numerous other activities in the area of systematic analysis of the system which included the active participation of the academic community and the other stakeholders (analysis of the internationalization at higher education system, analysis of the benchmarking utilization as a tool for improving internal quality assurance system etc). [...]only 12 of 22 institutions underwent the process of accreditation so far and the system is still in the first cycle of accreditation, so the thematic analysis area was probably not fully developed in that particular moment but we consider that given all the facts, the assessment of "noncompliance" is unmerited and too rigid”.*

ACC's assessment

The ACC considers that conclusion of non-compliance is too harsh in this instance. Although it appears to be in a start-up stage, evidence for some thematic analysis does exist, albeit in a local language and taking on different formats. For example, the agency's actions indicate they have pursued learning available for system improvement. In addition, the annual reports of the agency for 2012 and 2014 have short chapters referring to *Issues identified during the accreditation process*. Thus, there is evidence of reports analysing findings of RS HEAA QA activities which have been published. The agency has indicated that despite the non-complete stage of the review cycle they have produced this learning information for two years running. In addition, the ACC considers that language should not be an obstacle in considering **the evidence of compliance with the standards**. The fact that the agency is young and has not yet completed the first cycle of accreditations, and there is not too much material for analysis, it should perhaps be interpreted that what they have provided to date is quite an effort on RS HEAA's part, given the references to resource limitations and the short timeline. Although the ACC considers that this area overall does require a more systematic development in the future, it **is of the opinion that partially compliant is a more appropriate finding than non-compliant** for this standard.

ESG 3.5 Resources

The Review Panel's statement

The review panel recommended that the agency should seek assurances from the Ministry about the provision of sufficient resources to fulfil its planned program of accreditation. There are references to limited resources throughout the report, also references to the agency trying to secure funding through various projects to supplement areas that need to be tackled. The overall recommendation is partially compliant.

ENQA Review Committee's statement (scrutiny report)

The Review Committee members agreed with the panel that resources are a concern and affecting upon the core activities of RS HEAA. Partially compliant was the overall consensus indicated.

The Board's statement

The Board agrees with the panel's recommendation that the agency should seek assurances from the Ministry about the provision of sufficient resources to fulfil its planned program of accreditation.

RS HEAA's appeal response

The agency refers to its planned relocation which should happen shortly. It states, *"the overall financial resources could be better but it should be taken into account that Republic Srpska is a developing society and that the expected results have been achieved with available resources since the system is relatively small. Also the Agency is using the possibility of outsourcing where it is appropriate"*.

ACC's assessment

The ACC considers that this finding is quite conclusive. The agency has highlighted resources as a weakness and a concern. The direct impact on the staff and their ability to carry out standard accreditation tasks, such as engaging international experts, does indicate that the agency has a significant issue. To add to this, a lack of security in the fixed tenure (location) of the agency and the dependency on future legislation to increase business that is already politically sensitive implies that the agency is in a resource and strategic deficient position. Judgement made by the review panel with all the reasoning is sufficient. Overall, it appears that many of the problems the agency is facing are directly linked to the scarce resources and in this case partially compliant is justified.

ESG 3.6 Internal Quality Assurance and Professional conduct

The Review Panel's statement

The panel recommended that in consultation with the Steering Board and the Accreditation Council, RS HEAA should consider developing a code of conduct for internal quality assurance that assures integrity of procedures and fosters the continuous improvement of the Agency's activities. It should also address the conduct of accreditation reviews and the protocols of staff engagement with higher education institutions and other stakeholders. The review panel concluded that the agency is partially compliant with this standard.

ENQA Review Committee's statement (scrutiny report)

The Review Committee agreed with the panel's comments, particularly the conflict-of-interest of staff member(s) involved in the QA of a higher education institution. Though it is a small agency, it still needs to assure the integrity of procedures and foster the continuous improvement of the Agency's activities. Partially compliant was considered appropriate by Review Committee.

The Board's statement

The Board agreed with the judgement of the review panel and the recommendation.

RS HEAA's appeal response

The agency's response concedes that *"Currently there are no formal and regular processes for internal quality assurance in operation - the Agency has redundant document entitled "Rules of conduct for quality" and uses document management software Alfresco."* However, RS HEAA argues that the panel did not examine the content of the Rules of conduct and software during the on-site visit although it was available, so they are afraid that panel's assessment (that there are no formal and regular processes for the internal quality assurance) is not evidence based. The documents is available in local language according to the needs of the RSHEAA.

ACC's assessment

The information and analysis provided in the panel's report is quite brief on this standard. Based on the information provided in the agency self-assessment report on the internal quality assurance system it could be argued that there is a theoretical framework for an internal quality assurance (IQA) system in place. The phases of the PDCA cycle are operationalized, but some of the elements of the IQA are in a *development phase* thus the system is not fully functioning yet. This is also endorsed by the SWOT analysis presented by the agency. On this aspect, the ACC would agree with the conclusion of partial compliance. And with regard to the professional conduct, RS HEAA are certainly in need of protocols for staff engagement with the HEIs. The staff members of the agency participating in an internal quality assurance committee of a HEI demonstrate an urgent need for a code of ethics for staff. The ACC agrees with the overall conclusion of partial compliance.

Final remarks and conclusion

In arriving at its decision, the AAC focused on the points that the Board of ENQA and the review panel found problematic, to consider if the final decision of the Board has been appropriate and if RS HEAA in their appeal have brought clarifying evidence that would contribute new information for the possible endorsement of the appeal.

The most significant issue for RS HEAA appears to be its position, status (with HEA) and role inside the national legislative framework which is added to by the law of the Republika Srpska. This is all compounded by the lack of necessary resources for the Agency. The ACC did not consider the size of the HE system to be a particular issue, however, it does perhaps become compromising when an agency is unable to resource the usual accreditation operations and governance.

The Agency seems to be placed in a precarious and venerable position rather than a clear and through, comprehensive authoritative role covering the core basics of ESG expectations. The RS HEAA is thus 'losing' important positioning, tasks and potential development that an independent quality assurance agency should normally hold and execute, according to the ESG.

The ACC concludes that the Board should reject RS HEAA's appeal and stand by its decision not to grant RS HEAA Membership at this stage.