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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

HUNGARY

ACT XXV OF 2017

ON THE AMENDMENT OF ACT CCIV OF 2011

ON NATIONAL TERTIARY EDUCATION

Translation provided by the Hungarian authorities

**Act XXV of 2017
on the amendment of Act CCIV of 2011 on National Tertiary Education¹**

Section 1

Act CCIV of 2011 on National Tertiary Education (hereinafter: Nfitv.) Section 9 shall be supplemented by the following paragraphs (2a) and (2b):

“(2a) The name of the institution of tertiary education shall be clearly different from the names of other institutions of tertiary education. The name of the institution of tertiary education shall not be misleading, it shall not create a false appearance concerning the institution or the activity thereof. The name of the institution of tertiary education shall be considered misleading or confusing if the name of the institution in Hungarian or in a foreign language and the name of any other institution of tertiary education registered with the Educational Authority are identical. An institution of tertiary education shall not bear the name of a living person. Names of outstanding figures of history shall only be indicated in the name of the institution of tertiary education with the permission of the Hungarian Academy of Sciences, furthermore, names concerning which another party has legitimate interests shall only be indicated in the name of such institution with the approval of the holder of such right.

(2b) The name of the institution of tertiary education in a foreign language shall be substantially identical with the name in Hungarian. In the case of two or more institutions of tertiary education with the same name, that institution of tertiary education shall be entitled to bear the name, the upholder of which first submitted the petition for registration.”

Section 2

(1) Section 76. paragraph (1) of Nftv. shall be replaced by the following provision:

“(1) Foreign institutions of tertiary education may offer study programmes resulting in the issuance of certificates in the territory of Hungary, if

a) if the contracting parties have recognized the obligatory application of the international agreement on the theoretical support of its operation in Hungary, concluded between the Government of Hungary and the Government of the country of the seat of the foreign institutions of tertiary education – in the case of a federal state, if not the central government is entitled to recognize the obligatory application of an international agreement, based on a preliminary agreement concluded with the central government thereof,

b) it is qualified as an institution of tertiary education recognized by the state, operating in the country of its seat and actually performing tertiary education there,

c) the education intended to be provided by it in the territory of Hungary and the certificate issued with regard to that are considered education recognized by the state and giving a degree in tertiary education, and

d) the operation thereof has been permitted by the Educational Authority.”

(2) Section 76 of Nftv. shall be supplemented by the following paragraph (1a):

“(1a) In respect of the institution of tertiary education defined in paragraph (1), the rules defined in Section 9 paragraphs (2a) and (2b) shall also be applied – with the exception of the rule on

¹ *The National Assembly accepted this Act on its session held on 4 April 2017.*

using the names of outstanding personages of history – providing that the name of the institution of tertiary education cannot be confused with the names defined in Annex 1, or with the name of any other foreign institution of tertiary education performing educational activities in Hungary.”

(3) Section 76. paragraphs (2) and (3) of Nftv. shall be replaced by the following provisions:

“(2) The license for starting operation may be rejected based on an expert opinion issued in the country of origin or any other accreditation body compliant with ESG. The expert opinion shall cover the personal and material requirements of education, the quality of the education.

(3) The license for starting operation may be denied if the degree or the qualification certified by the diploma cannot be recognised in Hungary. If the degree or the qualification certified by the diploma issued by an institution of tertiary education cannot be recognised in Hungary, the institution shall inform the applicants accordingly in a clear and certifiable manner, the fulfilment of which shall be verified by the Educational Authority.”

(4) Section 76 shall be supplemented by the following paragraphs (5a) and (5b):

“(5a) The Educational Authority shall register the foreign institution of tertiary education with an operating license. The operating license shall be reviewed by the Educational Authority at least every five years. The Educational Authority shall withdraw its resolution on granting the operating license if, at a later date, the foreign institution of tertiary education or the training fails to comply with the conditions defined in paragraph (1) clauses (a) to (c) or in paragraphs (2) and (3).

(5b) The minister shall exercise the powers defined in Sections 65 to 66 in respect of the operation of foreign institutions of tertiary education.”

(5) Section 76. paragraph (6) of Nftv. shall be replaced by the following provision:

“(6) The provisions concerning the legality supervision of the institution of tertiary education issuing a foreign degree, specified in paragraph (1), shall be applicable in the absence of other provisions laid down in the international agreement promulgated by an Act.”

Section 3

Section 77. paragraph (2) of Nftv. shall be replaced by the following provision:

“(2) The provisions contained in Section 76 paragraph (1) clause (a) shall be applicable to the operation in Hungary of an institution of tertiary education having its seat in another EEA State, furthermore, the issue of the license necessary for its operation shall not be denied on the basis of the equivalence requirement stipulated in Section 76 (3).”

Section 4

(1) Section 115. paragraph (7) of Nftv. shall be replaced by the following provision:

“(7) The conditions laid down in this Act – stipulated in Act of 2017, on the amendment of Act CCIV of 2011 on National Tertiary Education (hereinafter: Módtv2.) contained in Section 9 paragraphs (2a) and (2b), Section 76 paragraphs (1) and clause (1a) – in the case of federal states, with the exception of a preliminary agreement concluded with the central government thereof –, shall be fulfilled by foreign institutions of tertiary education having an operating license on 1 September 2017 until 1 January 2018.

In the case of federal states, the preliminary agreement serving as the basis thereof shall be concluded within six months following the entry into force of Módtv2. The Educational Authority shall withdraw the operating license of foreign institutions of tertiary education not compliant with the conditions, and after 1 January 2018 no students shall be admitted to the first year of the training in Hungary of the foreign institutions of tertiary education, providing that Hungarian training courses already in progress on 1 January 2018 may be completed in a system of phasing out, with unchanged conditions, but not later than the academic year of 2020/2021.”

(2) Section 115 of Nftv. shall be supplemented by the following paragraph (8):

“(8) The provisions of this Act – stipulated by Módtv2. – contained in Section 77 paragraph (4) shall be first applied to training courses launched in the academic year of 2018/2019, providing that courses already in progress may be completed in a system of phasing out, with unchanged conditions, but not later than the academic year of 2020/2021.”

Section 5

Section 117. paragraph (4) of Nftv. shall be replaced by the following paragraph:

„(4) Programmes registered in accordance with the provisions of Section 106 (7) of the 2005 Act on Tertiary Education, and the data thereof managed by the information system shall be deleted from the records by the Educational Authority when the programmes terminate as the studies of the last students end – but at the end of the academic year of 2020/2021 at the latest –, and the Educational Authority shall also initiate the deletion of these from the higher education information system, providing that these courses do not comply with the conditions defined in Section 77 (4).”

Section 6

In Section 77 (3) of Nftv., the words „*in Section 76 (1)*” shall be replaced by the words „*in Section 76 (1) clauses (b) and (c)*”.

Section 7

a) In paragraph (4) of Section 77 of Nftv. the words “*and about the Organisation for Economic Co-operation and Development (OECD)*”

b) Section 104 paragraph (7) clause (ba). shall be invalidated.

Section 8

(1) This Act, excluding the exception set out in paragraphs (2) and (3), shall enter into force on the day following the promulgation thereof.

(2) Section 2 paragraphs (3), (4), (5), Section 3, Section 4 paragraph (2), Section 5-6 and Section 7 clause (a) shall enter into force on 1 September 2017.

(3) Section 7 clause (b) shall enter into force on 31 December 2017.

János Áder
President of the Republic

László Kövér
President of the National Assembly