

To the Attention of
I.S.F.O.A.

Pro Veritate Legal Opinion

Recognition in Italy of Foreign Private Academic Qualifications, University Autonomy, and Substantive Practices Overcoming Formal Constraints, with Specific Reference to the Declaration of Value, the CIMEA Statement, and the Diploma Supplement

1. The Foundation of University Autonomy and Overcoming the Ministerial Monopoly
The regulatory framework regarding the recognition of foreign educational qualifications in Italy underwent a radical transformation with the entry into force of Law No. 148 of July 11, 2002, ratifying the Lisbon Recognition Convention. This legislative intervention definitively removed the monopoly on equivalencies from the Ministry, transferring exclusive competence to individual universities.

Under Article 2 of the aforementioned legislation, universities exercise an autonomous power of substantive assessment (so-called academic recognition) aimed at access to degree programs and the attainment of Italian qualifications.

This regulatory structure grants academic institutions the discretionary authority to verify the substantive compliance of foreign qualifications with their own standards, freeing them from the rigid formalisms of ministerial lists.

Therefore, the assessment must focus on the actual comparison of curricula, the examination of learning outcomes, and the workload expressed in the ECTS system.

2. The Progressive Overcoming of Documentary Requirements: Declaration of Value, CIMEA Comparability Statement, and Diploma Supplement

In light of the substantive approach outlined by Law 148/2002, the absence of ancillary documentation no longer constitutes, at least in practice, an insurmountable obstacle

to enrollment or to the recognition of qualifications issued by ISFOA or similar institutions.

Case law and administrative practice have progressively dismantled and eroded the alleged mandatory nature of such certifications:

Declaration of Value (DV): The provisions of Royal Decree No. 1269 of 1938 are to be considered implicitly repealed by Law 148/2002 as far as academic purposes are concerned. The Council of State (Judgment No. 4613/2007) unequivocally ruled that the failure to attach the DV does not preclude the university from conducting independent assessments, demoting such a document to "mere practice" which cannot be assigned a decisive or discriminatory role.

CIMEA Statement: The Information Centre on Academic Mobility and Equivalence (CIMEA) issues "statements of comparability" that have an exclusively advisory and informative nature, entirely incapable of legally binding the decision-making autonomy of public administrations and universities.

Diploma Supplement: Although Directive 2005/36/EC provides that this document replaces the DV for qualifications obtained within the European Higher Education Area and Switzerland, its absence does not exempt the university from its power and duty to perform a substantive inquiry into the candidate's curriculum studiorum.

3. Non-Inclusion in the swissuniversities List and the Legality of Private Education

One of the crucial nodes regarding qualifications awarded by Swiss private institutions (such as ISFOA) lies in their absence from the official lists of the Swiss authority (swissuniversities).

First of all, it should be clarified that:

The official decision-making body is the Swiss Accreditation Council (SAC);

The agency that materially conducts reviews and quality evaluation procedures is the Swiss Agency of Accreditation and Quality Assurance (AAQ);

swissuniversities merely publishes, purely for informational purposes, the list of Swiss higher education institutions already accredited under federal law.

It should also be noted that accreditation procedures involve substantial costs, exceeding 50,000 CHF, and that such accreditation must generally be renewed every 5 to 7 years. This naturally creates a barrier to entry for smaller educational entities.

Furthermore, absence from the swissuniversities list is entirely compatible with current legislation: the Swiss constitutional order, centered on freedom of science (Art. 20 Const.) and economic freedom (Art. 27 Const.), guarantees the free exercise of private academic activities without subjecting them to prior state authorization.

Institutional accreditation (pursuant to Arts. 28 and 29 of the Federal HERA/LPSU Act) is a strictly optional mechanism, not binding for the legal existence and legitimacy of the university, as confirmed by the CRUS declaration of March 4, 2010. As noted in a previous opinion regarding another private university (Unipsa, authorized by Resolution No. 704/06 of Canton Ticino pursuant to Art. 14 LUSI), the federal body officially stated that a private institution operating under Art. 27 Const. "is part of the Swiss educational space" and is qualified to award degrees.

Many Italian universities, exercising their autonomy and incorporating principles of EU law, adopt a thoroughly empirical and substantive review that disregards inclusion in such closed lists.

EU case law (Kraus judgment of the CJEU) and internal administrative case law (Lazio Regional Administrative Court No. 22359/2025) prohibit automatic and a priori rejections based solely on the lack of institutional accreditation or absence from formal lists.

In short, university administration is required to assess the qualification by applying the parameter of "substantial difference" (Art. VI.1 Lisbon Recognition Convention), and the burden of proof for denying recognition rests with the administration itself.

4. The Chronological Paradox: The Lisbon Convention and the Subsequent "Tightening" of the HERA/LPSU

The rigid application of current Swiss lists for international recognition reveals a serious legal and historical contradiction.

It should be noted that the Swiss Confederation ratified the Lisbon Recognition Convention on February 1, 1999.

At the time of signing and ratifying the treaty, the Swiss legal framework was characterized by complete freedom in using academic titles: the use of terms such as "university" or "university institute" was historically and constitutionally unrestricted.

The Swiss State therefore joined the Lisbon recognition system bringing with it an educational framework in which private entities operated and awarded university qualifications without any nominalistic or accreditation constraints.

The Swiss regulatory "tightening" occurred only sixteen years later, with the entry into force on January 1, 2015, of the Federal Act on Funding and Coordination of the Swiss Higher Education Sector (HERA/LPSU). It was exclusively Article 29 of this ex post internal legislation that reserved the use of protected designations strictly to accredited institutions.

This asymmetry clearly conflicts with the original ratio of the Convention: applying a formal and nominalistic limitation introduced in 2015 (the "tightening" of designations) retroactively to define the scope of application of an international treaty ratified in 1999, when the Swiss academic system peacefully included free and equal private initiative, constitutes an interpretative distortion.

This legal paradox sacrifices substantive transparency for subsequent bureaucratic formalism, further justifying the practice of Italian universities in disregarding restrictive references to swissuniversities lists in order to evaluate private Swiss qualifications according to their real, concrete educational value.

5. Qualification of the Degree and Overcoming the 12 ECTS Limit (Law 240/2010)

The most impactful effect of this substantive approach manifests in concrete career shortening and admission procedures.

The Italian legal system (under Art. 14 of Law 240/2010) imposes an unyielding limit of 12 University Credits (CFU/ECTS) for the recognition of professional skills or knowledge acquired through non-academic training activities.

If a private foreign qualification were downgraded to mere "non-formal private training," the student would face the wipeout of their academic career, being able to gain credit for at most the equivalent of two exams.

However, when the degree program board of an Italian university fully exercises its autonomy under Law 148/2002, it can radically alter the legal classification of the case. Upon verifying the substance of the program (through analysis of the ECTS transcript, syllabus, learning outcomes, and even through an entrance interview or assessment exam), the board can qualify the document not as "extra-university experience" (which would trigger the 12 ECTS limit), but as a full-fledged "foreign academic qualification".

This distinct qualification brings the awarded degree and corresponding academic record back into the domain of full academic recognition.

This practically enables Italian university administrative offices to:

Accept applications for direct degree equivalence (for instance, for a Bachelor's degree), requiring only the completion of limited credit deficiencies (compensatory measures that, in practice, often consist of integrating a few exams);

Directly admit students holding a foreign Bachelor's degree to a Master's degree program (Laurea Magistrale or University Master), deeming the legal entry requirement under D.M. 270/2004 fully satisfied.

The substantive approach, guided both by educational autonomy and the need to prevent administrative law disputes due to lack of substantive reasoning (misuse of power), makes it possible to recognize the actual value of Swiss education.

In this way, access to higher levels of Italian academic education is guaranteed in full alignment with the facilitating spirit of the Lisbon Convention, bypassing the distortions created by subsequent, restrictive Swiss reforms.