



The implications of the UK-EU Trade and Cooperation Agreement for UK transnational education

1. Introduction

- 1.1. Since the UK left the single market and customs union on 1 January 2021, education exports and professionals are now treated by EU Member States as originating from a third country. Regulation for trade in services will now occur at two main levels: domestic regulation in individual countries, and regulatory frameworks and commitments in trade agreements. [The EU-UK Trade and Cooperation Agreement \(TCA\)](#) belongs to the second group. This briefing focuses on the provisions of the TCA and does not include guidance on the domestic regulations applicable to TNE in the different EU member states.
- 1.2. The TCA comprises several sections with implications for UK transnational education (TNE) provision. Chapters 2, 3 and 4 of Title II, Heading one, Part two of the TCA regulate investment liberalisation, cross-border trade in services and the entry and temporary stay of natural persons for business purposes. Other provisions such as those regulating digital trade, intellectual property, subsidies and competition and guidelines for arrangements on the conditions for the recognition of professional qualifications fall out of the scope of this briefing. Some of these areas are covered by Universities UK's general briefing on the TCA which can be found [on UUKi's website](#).
- 1.3. It is also important to note that this briefing relates only to the text of the TCA as it was published in its version of 30 December 2020. The application of the TCA in each EU member state, future modifications of the TCA, and domestic regulatory divergence between the UK and EU countries will all have an impact on the cross-border provision of education services that needs to be monitored.

2. Provisions on investment liberalisation and cross-border trade in services in the TCA

2.1. Participation

The freedoms of establishment and movement of services have ceased to apply to trade between the UK and the EU. The TCA applies to privately funded education services establishing a new framework that limits the restrictions that each party can adopt with respect to service providers from the other party. The TCA is not applicable to education services 'which receive public funding or State support in any form', which remain the exclusive competence of each EU member state.

2.2. The main protections for UK transnational education service providers are:

2.2.1. Market access (Articles 128 and 135):

EU countries cannot impose limitations related to number of providers, value of transactions, number of operations, participation in the capital of companies, total number of persons that can be employed, or restrictions related to the type of legal entity or joint venture required to enter their education services market.

2.2.2. National treatment (Article 129 and 137):

UK providers should receive treatment 'no less favourable than that a Member State accords, in like situations, to its own nationals' with respect to establishment or provision of services in its territory. National treatment applies once a provider has entered the market. This means that conditions to the entry into the market of privately funded education services can still be established, as long as they are non-discriminatory.

2.2.3. Most favoured nation treatment (Article 130 and 138):

UK providers should receive treatment 'no less favourable than that a Member State accords, in like situations, to nationals of a third country' with respect to establishment or provision of services in its territory. Most favoured nation applies once a provider has entered the market. This means that conditions to the entry into the market of privately funded education services can still be established, as long as they are non-discriminatory.

2.2.4. Local presence (Article 136):

EU countries cannot require UK providers to have a local presence in their territory as a condition for providing a service; that is, education can be provided across borders without a legal presence in the territory.

2.2.5. Senior management and boards of directors (Article 131):

Nationality requirements for membership of senior management teams or boards of directors cannot be imposed.

2.2.6. Performance requirements (Article 132):

Performance requirements for establishment or provision of services in the territory of an EU country, for instance a requirement to employ a given number or percentage of nationals from a certain country, or to achieve a given level or percentage of domestic content, cannot be imposed. Such measures are commonly applied to transnational education provision in other territories.

2.3. For greater clarity, in EU countries UK higher education providers can be subject to qualification requirements and procedures, technical standards and licensing requirements and procedures where they do not constitute limitations on the right of establishment and the right to provide services within the meaning of the TCA. These measures may include in particular the need to obtain a licence, to satisfy universal service obligations, to have recognised qualifications in regulated sectors, to pass specific examinations, including language examinations, to fulfil a membership requirement of a particular profession, such as membership in a professional organisation, to have a local agent, or to maintain a local address, or any other non-discriminatory requirements that certain activities may not be carried out in protected zones or areas.

Key points

- The TCA offers protection to existing and future UK higher education transnational education provision in EU countries, including in relation to right of establishment and right to provide (privately funded) higher education services across borders.
- Domestic regulations still need to be considered for key aspects of providing transnational education, such as recognition of qualifications, transfer of intellectual property or transfer of data.

3. Reservations and non-conforming measures

3.1. There are reservations and non-conforming measures in the TCA that exclude some of the protections granted by Chapters 2 and 3 as presented above. For instance, UK providers cannot establish education centres in the territory of Bulgaria but may open faculties, departments, institutes and colleges within the structure of Bulgarian high schools and in cooperation with them (a list of reservations and non-conforming

measures applicable to higher education by country can be found in Appendices A and B).

- 3.2. Reservations apply to existing or future UK TNE provision in broadly three categories:
 - 3.2.1. In EU countries that have not registered reservations, conditions can be applied on a non-discriminatory basis to existing and future TNE provision. Those conditions cannot constitute a limitation around market access, local presence or national or third-country treatment as described in the agreement.
 - 3.2.2. In EU countries that have registered specific reservations, conditions to existing or future TNE provision are applied following the text of the reservation for either existing or future provision, where these reservations exist (e.g. in the case of Bulgaria, UK universities can open faculties or colleges within local high schools, but not independent branch campuses).
 - 3.2.3. In EU countries that have registered 'blanket' reservations for future provision, any conditions could be applied in the future, including discriminatory ones out of the scope of the agreement.
- 3.3. Beyond country-specific reservations and non-conforming measures, Article 139.2 enshrines the right of all parties to regulate within their territories to achieve legitimate policy objectives, including public education. A question that remains is if this article could be construed as allowing Member States to introduce measures affecting the delivery of privately funded UK higher education on the grounds of protecting public higher education.

Key points

- Individual EU countries have registered exceptions to the application of the agreement that may affect transnational education.
- A list of such exceptions by country can be found in appendices.

4. Entry and temporary stay of natural persons for business purposes

- 4.1. The entry and temporary stay of people is regulated in Chapter 4 of Title II, Heading one, Part two of the TCA, which considers five categories: business visitors for establishment purposes, contractual service suppliers, independent professionals, intra-corporate transferees and short-term business visitors. Provisions in some of the above categories apply to fly in teaching staff and other university staff travelling for administration purposes, for instance, where staff travel to participate in examination boards, or to conduct quality assurance reviews.
- 4.2. The chapter lists obligations for EU countries to limit the requirements that can be imposed on different types of visitors (such as numerical quotas, work permits, economic needs test or other prior approval procedures) and precludes discrimination with regards to the EU country's own service suppliers once the pertinent authorisation to enter the country has been granted.
- 4.3. The maximum length of stay varies from a period of up to three years for managers and specialists, up to one year for trainee employees and up to 90 days within any six-month period for business visitors for establishment purposes and short-term business visitors, while for contractual service suppliers and independent professionals EU countries must authorise entry for a cumulative period of 12 months, or the duration of the contract, whichever is less.
- 4.4. Non-conforming measures affecting movement of natural persons in higher education services are significant (see list of non-conforming measures in Appendix B). For instance, the provisions of the TCA for contractual service suppliers and independent professionals do not apply to higher education services in most EU countries. In these cases, national regulations could be more restrictive or laxer, depending on the country,

and could relate to immigration requirements, quotas, nationality or residence requirements and labour market tests among other. It is thus advised to check immigration requirements for individual countries where travel will take place.

Key points

- The TCA limits the requirements that can be imposed to different types of visitors for business purposes, which could affect staff travelling to EU countries as part of transnational education arrangements.
- Specific immigration requirements still need to be checked as they will differ by EU country.

5. Conclusion and next steps

- 5.1. The TCA protects against discriminatory measures to UK education service providers that wish to establish an education centre or provide privately funded education services in EU countries. While there are protections against measures that limit market entry (e.g. limitations on the number of providers that can enter a particular market cannot be imposed), provisions that protect against discrimination vis-à-vis local or third country providers apply once a provider has been allowed to operate in an EU country.
- 5.2. EU countries can still apply restrictive measures on a non-discriminatory basis to establishing a commercial presence or to cross-border provision of higher education. These measures can depart significantly from those that were applied when the UK was a member of the EU. For instance, we could conceive measures related to legal form, licencing or national accreditation, nationality requirements or recruitment of foreign academic personnel, student numbers, non-recognition of qualifications awarded, access to government funds and/or support or qualification of students enrolled for government benefits or financial assistance.
- 5.3. The TCA establishes a general framework, the implementation of the TCA on each EU country, its articulation with domestic regulations, future modifications to the agreement as well as regulatory divergence between the UK and EU countries will all have an impact on the cross-border provision of education services that need to be monitored.
- 5.4. It is advisable to undertake further work to understand the specific domestic requirements that exist for the provision on privately funded higher education services in the EU countries where UK universities deliver or aim to deliver programmes transnationally, and how they differ from those applied to local privately funded providers. Where requirements are not consistent with the content of the TCA, clarification on how they can be contested through the dispute settlement mechanisms included in the agreement would be welcomed.
- 5.5. If you have any questions about this briefing, the TCA and how it affects UK transnational education, please contact tne@international.ac.uk.

With our gratitude for their support and contribution to this paper:

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Appendix A Non-conforming measures for investment liberalisation and trade in services.

Extract from annexes in the Trade and Co-operation Agreement as indicated below.

ANNEX 19: EXISTING MEASURES

	<p>ANNEX 19: EXISTING MEASURES Reservation No. 10 - Education services (privately funded) Reservation No. 1 - All sectors</p>
EU	<p>The EU (applies also to the regional level of government): Any Member State, when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity providing health, social or education services, may prohibit or impose limitations on the ownership of such interests or assets, and/or restrict the ability of owners of such interests and assets to control any resulting enterprise, with respect to investors of the United Kingdom or their enterprises. With respect to such a sale or other disposition, any Member State may adopt or maintain any measure relating to the nationality of senior management or members of the boards of directors, as well as any measure limiting the number of suppliers.</p>
Austria	<p>The provision of privately funded university level education services in the area of applied sciences requires an authorisation from the competent authority, the AQ Austria (Agency for Quality Assurance and Accreditation Austria). An investor seeking to provide an applied science study programme must have his primary business being the supply of such programmes, and must submit a needs assessment and a market survey for the acceptance of the proposed study programme. The competent Ministry may deny an authorisation where the programme is determined to be incompatible with national educational interests. The applicant for a private university requires an authorisation from the competent authority (AQ Austria - Agency for Quality Assurance and Accreditation Austria). The competent Ministry may deny the approval if the decision of the accreditation authority does not comply with national educational interests (CPC 923). Measures: University of Applied Sciences Studies Act, BGBl. I Nr. 340/1993 as amended, § 2; Private University Act, BGBl. I Nr. 74/2011 as amended, § 2; and Act on Quality Assurance in Higher Education, BGBl. Nr. 74/2011 as amended, § 25 (3).</p> <p>For the operation of a branch, non-European Economic Area (non-EEA) corporations must appoint at least one person responsible for its representation who is resident in Austria. Executives (managing directors, natural persons) responsible for the observance of the Austrian Trade Act (Gewerbeordnung) must be domiciled in Austria. Measures: Aktiengesetz, BGBl. Nr. 98/1965, § 254 (2); GmbH-Gesetz, RGL. Nr. 58/1906, § 107 (2); and Gewerbeordnung, BGBl. Nr. 194/1994, § 39 (2a)</p> <p>The acquisition, purchase and rental or leasing of real estate by non-European Union natural persons and enterprises requires authorisation by the competent regional authorities (Länder). Authorisation will only be granted if the acquisition is considered to be in the public (in particular economic, social and cultural) interest. Measures: Burgenländisches Grundverkehrsgesetz, LGBL. Nr. 25/2007; Kärntner Grundverkehrsgesetz, LGBL. Nr. 9/2004; NÖ- Grundverkehrsgesetz, LGBL. 6800; OÖ- Grundverkehrsgesetz, LGBL. Nr. 88/1994; Salzburger Grundverkehrsgesetz, LGBL. Nr. 9/2002; Steiermärkisches Grundverkehrsgesetz, LGBL. Nr. 134/1993;</p>

	Tiroler Grundverkehrsgesetz, LGBL. Nr. 61/1996; Voralberger Grundverkehrsgesetz, LGBL. Nr. 42/2004; and Wiener Ausländergrundverkehrsgesetz, LGBL. Nr. 11/1998.
Bulgaria	<p>Foreign higher education institutions cannot establish subsidiaries in the territory of Bulgaria. Foreign higher education institutions may open faculties, departments, institutes and colleges in Bulgaria only within the structure of Bulgarian high schools and in cooperation with them (CPC 921, 922). Measures: Law for the Higher Education, paragraph 4 of the additional provisions.</p> <p>Foreign legal persons, unless established under the legislation of a Member State of the European Economic Area (EEA), may conduct business and pursue activities if established in the Republic of Bulgaria in the form of a company registered in the Commercial Register. Establishment of branches is subject to authorisation. Representative offices of foreign enterprises are to be registered with Bulgarian Chamber of Commerce and Industry and may not engage in economic activity but are only entitled to advertise their owner and act as representatives or agents. Measures: Commercial Law, Article 17a; and Law for Encouragement of Investments, Article 24.</p> <p>Established enterprises may employ third country nationals only for positions for which there is no requirement for Bulgarian nationality. The total number of third country nationals employed by an established enterprise over a period of the preceding 12 months must not exceed 20 percent (35 percent for small and medium-sized enterprises) of the average number of Bulgarian nationals, nationals of other Member States, of states parties to the Agreement on the EEA or of the Swiss Confederation hired on an employment contract. In addition, the employer must demonstrate that there is no suitable Bulgarian, EU, EEA or Swiss worker for the respective position by conducting a labour market test before employing a third country national. For highly qualified, seasonal and posted workers, as well as for intra-corporate transferees, researchers and students there is no limitation on the number of third country nationals working for a single enterprise. For the employment of third country nationals in these categories, no labour market test is required. Measures: Labour Migration and Labour Mobility Act.</p>
Croatia	<p>Foreign companies are only allowed to acquire real estate for the supply of services if they are established and incorporated in Croatia as legal persons. Acquisition of real estate necessary for the supply of services by branches requires the approval of the Ministry of Justice. Agricultural land cannot be acquired by foreigners. Measures: Ownership and other Proprietary Rights Act (OG 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 143/12, 152/14), Articles 354 to 358.b; Agricultural Land Act (OG 20/18, 115/18, 98/19) Article 2; General Administrative Procedure Act.</p> <p>The purchase of real estate by non-residents is subject to obtaining authorisation from the appropriate administrative authority responsible for the geographical location of the property. Measures: Government Decree No. 251/2014 (X. 2.) on the Acquisition by Foreign Nationals of Real Estate other than Land Used for Agricultural or Forestry Purposes; and Act LXXVIII of 1993 (Paragraph 1/A)</p>
Cyprus	Nationality of a Member State is required for owners and majority shareholders in a privately funded school. Nationals of the United Kingdom may obtain authorisation from the Minister (of Education) in accordance with the specified form and conditions.

	<p>Cypriots or persons of Cypriot origin, as well as nationals of a Member State, are allowed to acquire any property in Cyprus without restrictions. A foreigner shall not acquire, otherwise than mortis causa, any immovable property without obtaining a permit from the Council of Ministers. For foreigners, where the acquisition of immovable property exceeds the extent necessary for the erection of a premises for a house or professional roof, or otherwise exceeds the extent of two donums (2,676 square meter), any permit granted by the Council of Ministers shall be subject to such terms, limitations, conditions and criteria which are set by Regulations made by the Council of Ministers and approved by the House of Representatives. A foreigner is any person who is not a citizen of the Republic of Cyprus, including a foreign controlled company. The term does not include foreigners of Cypriot origin or non-Cypriot spouses of citizens of the Republic of Cyprus.</p> <p>Measures: Immovable Property Acquisition (Aliens) Law (Chapter 109), as amended.</p>
Czech Republic	<p>Establishment in a Member State is required to apply for state approval to operate as a privately funded higher education institution. This reservation does not apply to post-secondary technical and vocational education services (CPC 92310).</p> <p>Measures: Act No. 111/1998, Coll. (Higher Education Act), § 39; and Act No. 561/2004 Coll. on Pre-school, Basic, Secondary, Tertiary Professional and Other Education (the Education Act).</p> <p>Specific rules apply to agricultural land under state ownership. State agricultural land can be acquired only by Czech nationals, nationals of another Member State, or states parties to the Agreement on the EEA or the Swiss Confederation. Legal persons can acquire state agriculture land from the state only if they are agricultural entrepreneurs in the Czech Republic or persons with similar status in other Member State of the European Union, or states parties to the Agreement on the EEA or the Swiss Confederation.</p> <p>Measures: Act No. 503/2012, Coll. on State Land Office as amended.</p>
Denmark	<p>Natural persons who are not resident in Denmark, and who have not previously been resident in Denmark for a total period of five years, must in accordance with the Danish Acquisition Act obtain permission from the Ministry of Justice to acquire title to real property in Denmark. This also applies for legal persons that are not registered in Denmark. For natural persons, acquisition of real property will be permitted if the applicant is going to use the real property as his or her primary residence.</p> <p>For legal persons that are not registered in Denmark, acquisition of real property will in general be permitted, if the acquisition is a prerequisite for the business activities of the purchaser. Permission is also required if the applicant is going to use the real property as a secondary dwelling. Such permission will only be granted if the applicant through an overall and concrete assessment is regarded to have particular strong ties to Denmark.</p> <p>Permission under the Acquisition Act is only granted for the acquisition of a specific real property. The acquisition of agricultural land by natural or legal persons is in addition governed by the Danish Agricultural Holdings Act, which imposes restrictions on all persons, Danish or foreign, when acquiring agricultural property. Accordingly, any natural or legal person, who wishes to acquire agricultural real property, must fulfil the requirements in this Act. This generally means a limited residence requirement on the agricultural holding applies. The residence requirement is not personal. Legal entities must be of the types listed in §20 and §21 of the act and must be registered in the Union (or EEA).</p> <p>Measures: Danish Act on Acquisition of Real Property (Consolidation Act No. 265 of 21 March 2014 on Acquisition of Real Property); Acquisition Executive Order (Executive Order No. 764 of 18 September 1995); and The Agricultural Holdings Act (Consolidation Act No. 27 of 4 January 2017).</p>

Estonia	<p>If the residence of at least half of the members of the management board of a private limited company, a public limited company or a branch is not in Estonia, in another Member State of the EEA or in the Swiss Confederation, the private limited company, the public limited company or the foreign company shall appoint a point of contact whose Estonian address can be used for the delivery of the procedural documents of the undertaking and the declarations of intent addressed to the undertaking (i.e. the branch of a foreign company).</p> <p>Measures: Äriseadustik (Commercial Code) § 631 (1, 2 and 4).</p> <p>A legal person from an OECD Member State has the right to acquire an immovable which contains:</p> <ul style="list-style-type: none"> i. less than ten hectares of agricultural land, forest land or agricultural and forest land in total without restrictions. ii. ten hectares or more of agricultural land if the legal person has been engaged, for three years immediately preceding the year of making the transaction of acquisition of the immovable, in production of agricultural products listed in Annex I to the Treaty on the Functioning of the European Union, except fishery products and cotton (hereinafter agricultural product). iii. ten hectares or more of forest land if the legal person has been engaged, for three years immediately preceding the year of making the transaction of acquisition of the immovable, in forest management within the meaning of the Forest Act (hereinafter forest management) or production of agricultural products. iv. less than ten hectares of agricultural land and less than ten hectares of forest land, but ten hectares or more of agricultural and forest land in total, if the legal person has been engaged, for three years immediately preceding the year of making the transaction of acquisition of the immovable, in production of agricultural products or forest management. <p>If a legal person does not meet the requirements provided for in (ii)–(iv), the legal person may acquire an immovable which contains ten hectares or more of agricultural land, forest land or agricultural and forest land in total only with the authorisation of the council of the local government of the location of the immovable to be acquired.</p> <p>Restrictions on acquiring immovable property apply in certain geographical areas for non-EEA nationals.</p> <p>Measures: Kinnisasja omandamise kitsendamise seadus (Restrictions on Acquisition of Immovables Act) Chapter 2 § 4, Chapter 3§ 10, 2017.</p>
Finland	<p>At least one of the partners in a general partnership or of general partners in a limited partnership needs to have residency in the EEA or, if the partner is a legal person, be domiciled (no branches allowed) in the EEA. Exemptions may be granted by the registration authority.</p> <p>To carry on trade as a private entrepreneur, residency in the EEA is required.</p> <p>If a foreign organisation from a country outside the EEA intends to carry on a business or trade by establishing a branch in Finland, a trade permit is required.</p> <p>Residency in the EEA is required for at least one of the ordinary and one of the deputy members of the board of directors and for the managing director.</p> <p>Company exemptions may be granted by the registration authority.</p> <p>Measures: Laki elinkeinon harjoittamisen oikeudesta (Act on the Right to Carry on a Trade) (122/1919), s. 1; Osuuskuntalaki (Co-Operatives Act) 1488/2001; Osakeyhtiölaki (Limited Liabilities Company Act) (624/2006); and Laki luottolaitostoiminnasta (Act on Credit Institutions) (121/2007).</p>
France	<p>Nationality of a Member State is required in order to teach in a privately funded educational institution (CPC 921, 922, 923). However, nationals of the United Kingdom may obtain an authorisation from the relevant competent authorities in order to teach in primary, secondary and higher level educational institutions.</p> <p>Nationals of the United Kingdom may also obtain an authorisation from the relevant competent authorities in order to establish and operate or manage</p>

	<p>primary, secondary or higher level educational institutions. Such authorisation is granted on a discretionary basis. Measures: Code de l'éducation</p>
Germany	<p>Certain conditions of reciprocity may apply for the acquisition of real estate. Measures: Einführungsgesetz zum Bürgerlichen Gesetzbuche (EGBGB; Introductory Law to the Civil Code).</p>
Greece	<p>Education at university level shall be provided exclusively by institutions which are fully self-governed public law legal persons. However, Law 3696/2008 permits the establishment by Union residents (natural or legal persons) of private tertiary education institutions granting certificates which are not recognised as being equivalent to university degrees (CPC 923). Measures: Constitution of Hellas, Article 16, paragraph 5 and Law 3549/2007.</p> <p>Real estate acquisition or tenancy in the border regions is prohibited to natural or legal persons whose nationality or base is outside the Member States and the European Free Trade Association. The ban may be lifted with a discretionary decision taken by a committee of the appropriate Decentralized Administration (or the Minister of National Defense in case the properties to be exploited belong to the Fund for the Exploitation of Private Public Property). Measures: Law 1892/1990, as it stands today, in combination, as far as the application is concerned, with the ministerial decision F.110/3/330340/S.120/7-4-14 of the Minister of National Defense and the Minister of Citizen Protection</p>
Italy	<p>An authorisation is required in order to open a privately funded university which issues recognised diplomas or degrees. An economic needs test is applied. Main criteria: population and density of existing establishments. This is based on a three-year programme and only Italian legal persons may be authorised to issue state-recognised diplomas (CPC 923). Measures: Royal Decree 1592/1933 (Law on secondary education); Law 243/1991 (Occasional public contribution for private universities); Resolution 20/2003 of CNVSU (Comitato nazionale per la valutazione del sistema universitario); and Decree of the President of the Republic (DPR) 25/1998.</p>
Latvia	<p>Acquisition of urban land by nationals of the United Kingdom is permitted through legal persons registered in Latvia or other Member States:</p> <ul style="list-style-type: none"> (i) if more than 50 per cent of their equity capital is owned by nationals of Member States, the Latvian Government or a municipality, separately or in total; (ii) if more than 50 per cent of their equity capital is owned by natural persons and companies of third country with whom Latvia has concluded bilateral agreements on promotion and reciprocal protection of investments and which have been approved by the Latvian Parliament before 31 December 1996; (iii) if more than 50 per cent of their equity capital is possessed by natural persons and companies of third country with whom Latvia has concluded bilateral agreements on promotion and reciprocal protection of investments after 31 December 1996, if in those agreements the rights of Latvian natural persons and companies on acquisition of land in the respective third country have been determined; (iv) if more than 50 per cent of their equity capital is possessed jointly by persons referred to in points (i) to (iii); or (v) which are public joint stock companies, if their shares thereof are quoted in the stock exchange. <p>Where the United Kingdom allows Latvian nationals and enterprises to purchase urban real estate in their territories, Latvia will allow nationals and enterprises of the United Kingdom to purchase urban real estate in Latvia under the same conditions as Latvian nationals. Measures: Law on land reform in the cities of the Republic of Latvia, Section 20 and 21.</p>

Malta	<p>Service suppliers seeking to provide privately funded higher or adult education services must obtain a licence from the Ministry of Education and Employment. The decision on whether to issue a licence may be discretionary (CPC 923, 924). Measures: Legal Notice 296 of 2012.</p> <p>Non-nationals of a Member State may not acquire immovable property for commercial purposes. Companies with 25 per cent (or more) of non-European Union shareholding must obtain an authorisation from the competent authority (Minister responsible for Finance) to buy immovable property for commercial or business purposes. The competent authority will determine whether the proposed acquisition represents a net benefit to the Maltese economy. Measures: Immovable Property (Acquisition by Non-Residents) Act (Cap. 246); and Protocol No 6 of the EU Accession Treaty on the acquisition of secondary residences in Malta.</p>
Poland	<p>The scope of operations of a representative office may only encompass advertising and promotion of the foreign parent company represented by the office. For all sectors except legal services, establishment by non-European Union investors and their enterprises may only be in the form of a limited partnership, limited joint-stock partnership, limited liability company, and joint-stock company, while domestic investors and enterprises have access also to the forms of non-commercial partnership companies (general partnership and unlimited liability partnership). PL: Act of 6 March 2018 on rules regarding economic activity of foreign entrepreneurs and other foreign persons in the territory of the Republic of Poland.</p> <p>The acquisition of real estate, direct and indirect, by foreigners requires a permit. A permit is issued through an administrative decision by a minister competent in internal affairs, with the consent of the Minister of National Defence, and in the case of agricultural real estate, also with the consent of the Minister of Agriculture and Rural Development. Measures: Law of 24th March 1920 on the Acquisition of Real Estate by Foreigners (Journal of Laws of 2016, item 1061 as amended).</p>
Romania	<p>Foreign nationals, stateless persons and legal persons (other than nationals and legal persons of a Member State of the EEA) may acquire property rights over lands, under the conditions regulated by international treaties, based on reciprocity. Foreign nationals, stateless persons and legal persons may not acquire the property right over lands under more favourable conditions than those applicable to natural or legal persons of the European Union. Measures: Law 17/2014 on some measures regulating the selling-buying agricultural land situated outside town and amending; and Law No 268/2001 on the privatization of companies that own land in public ownership and private management of the state for agricultural and establishing the State Domains Agency, with subsequent amendments.</p>
Slovakia	<p>Establishment in a Member State is required to apply for state approval to operate as a privately funded higher education institution. This reservation does not apply to post-secondary technical and vocational education services (CPC 92310). Measures: Law No. 131 of 21 February 2002 on Universities</p> <p>A foreign natural person whose name is to be registered in the appropriate register (Commercial register, Entrepreneurial or other professional register) as a person authorised to act on behalf of an entrepreneur is required to submit a residence permit for Slovakia. Measures: Act 513/1991 on Commercial Code (Article 21); Act 455/1991 on Trade Licensing; and Act no 404/2011 on Residence of Aliens (Articles 22 and 32).</p>
Spain	<p>An authorisation is required in order to open a privately funded university which issues recognised diplomas or degrees. An economic needs test is applied. Main</p>

	<p>criteria: population and density of existing establishments. The procedure involves obtaining the advice of the Parliament.</p> <p>Measures: Ley Orgánica 6/2001, de 21 de Diciembre, de Universidades (Law 6 / 2001 of 21 December, on Universities), Article 4.</p> <p>Foreign investment in activities directly relating to real estate investments for diplomatic missions by states that are not Member States requires an administrative authorisation from the Spanish Council of Ministers, unless there is a reciprocal liberalisation agreement in place.</p> <p>Measures: Royal Decree 664/1999 of 23 April 1999 relating to foreign investment.</p>
Sweden	<p>A foreign company, which has not established a legal entity in Sweden or is conducting its business through a commercial agent, shall conduct its commercial operations through a branch, registered in Sweden, with independent management and separate accounts. The managing director and the vice-managing director, if appointed, of the branch, must reside in the EEA. A natural person not resident in the EEA, who conducts commercial operations in Sweden, shall appoint and register a resident representative responsible for the operations in Sweden. Separate accounts shall be kept for the operations in Sweden. The competent authority may in individual cases grant exemptions from the branch and residency requirements. Building projects with duration of less than a year, conducted by a company located or a natural person residing outside the EEA, are exempted from the requirements of establishing a branch or appointing a resident representative.</p> <p>For limited liability companies and co-operative economic associations, at least 50 per cent of the members of the board of directors, at least 50 per cent of the deputy board members, the managing director, the vice-managing director, and at least one of the persons authorised to sign for the company, if any, must reside within the EEA. The competent authority may grant exemptions from this requirement. If none of the company's or society's representatives reside in Sweden, the board must appoint and register a person resident in Sweden, who has been authorised to receive servings on behalf of the company or society. Corresponding conditions prevail for establishment of all other types of legal entities.</p> <p>Measures: Lag om utländska filialer m.m (Foreign Branch Offices Act) (1992:160); Aktiebolagslagen (Companies Act) (2005:551); The Co-operative Economic Associations Act (2018:672); and Act on European Economic Interest Groupings (1994:1927).</p>
UK	<p>All educational services which receive public funding or State support in any form, and are therefore not considered to be privately funded. Where the supply of privately funded education services by a foreign provider is permitted, participation of private operators in the education system may be subject to the granting of a concession allocated on a non-discriminatory basis</p>
	<p>ANNEX 20: FUTURE MEASURES</p> <p>Reservation No. 14 - Education services (privately funded) Reservation No. 1 - All sectors</p> <p>The list of reservations below does not include measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures where they do not constitute a limitation within the scope of the agreement. These measures may include, in particular the need to obtain a licence, to satisfy universal service obligations, to have recognised qualifications in regulated sectors, to pass specific examinations, including language examinations, to fulfil a membership requirement of a particular profession, such as membership in a professional organisation, to have a local agent for service, or to maintain a local address, or any other</p>

	<p>nondiscriminatory requirements that certain activities may not be carried out in protected zones or areas. While not listed, such measures continue to apply.</p> <p>For greater certainty, for the European Union, the obligation to grant national treatment does not entail the requirement to extend to natural or legal persons of the United Kingdom the treatment granted in a Member State, pursuant to the Treaty on the Functioning of the European Union, or any measure adopted pursuant to that Treaty, to natural persons or residents of another Member State or legal persons constituted or organised under the law of another Member State or of the Union and having their registered office, central administration or principal place of business in the Union.</p>
EU	<p>The EU reserves the right to adopt or maintain any measure with respect to educational services which receive public funding or State support in any form. Where the supply of privately funded education services by a foreign provider is permitted, participation of private operators in the education system may be subject to concession allocated on a non-discriminatory basis.</p> <p>The EU, with the exception of Czech Republic, the Netherlands, Sweden and Slovakia reserves the right to adopt or maintain any measure with respect to the supply of privately funded other education services, which means other than those classified as being primary, secondary, higher and adult education services.</p>
Austria	<p>Austria reserves the right to adopt or maintain any measure with respect to the supply of privately funded higher education services and to restrict the cross-border supply of privately funded adult education services by means of radio or television broadcasting</p>
Bulgaria	<p>Bulgaria reserves the right to adopt or maintain any measure with respect to the supply of privately funded higher education services.</p> <p>Certain economic activities related to the exploitation or use of State or public property are subject to concessions granted under the provisions of the Concessions Act.</p> <p>In commercial corporations in which the State or a municipality holds a share in the capital exceeding 50 per cent, any transactions for disposition of fixed assets of the corporation, to conclude any contracts for acquisition of participating interest, lease, joint activity, credit, securing of receivables, as well as incurring any obligations arising under bills of exchange, are subject to authorisation or permission by the Privatisation Agency or other state or regional bodies, whichever is the competent authority. This reservation does not apply to mining and quarrying, which are subject to a separate reservation in the schedule of the European Union in ANNEX SERVIN-1.</p> <p>Foreign natural and legal persons cannot acquire land. Legal persons of Bulgaria with foreign participation cannot acquire agricultural land. Foreign legal persons and foreign natural persons with permanent residence abroad can acquire buildings and real estate property rights (right to use, right to build, right to raise a superstructure and servitudes). Foreign natural persons with permanent residence abroad, foreign legal persons in which foreign participation ensures a majority in adopting decisions or blocks the adoption of decisions, can acquire real estate property rights in specific geographic regions designated by the Council of Ministers subject to permission.</p>
Croatia	<p>Establishment should take a form of limited liability company, joint-stock company or representative office. Initial entry as a branch is not permitted except for financial services.</p>
Cyprus	<p>Cyprus reserves the right to adopt or maintain any measure with respect to the supply of privately funded higher education services.</p>
Czech Republic	<p>The majority of the members of the board of directors of an establishment providing privately funded education services must be nationals of that country.</p>

Estonia	Foreign natural or legal persons that are not from the EEA or from members of the Organisation for Economic Co-operation and Development can acquire an immovable asset which contains agricultural and/or forest land only with the authorisation of the county governor and of the municipal council, and must prove as prescribed by law that the immovable asset will, according to its intended purpose, be used efficiently, sustainably and purposefully.
Finland	<p>Finland reserves the right to adopt or maintain any measure with respect to the supply of privately funded higher education services.</p> <p>Restrictions on the right for natural persons, who do not enjoy regional citizenship in Åland, and for legal persons, to acquire and hold real property on the Åland Islands without obtaining permission from the competent authorities of the Åland Islands. Restrictions on the right of establishment and right to carry out economic activities by natural persons, who do not enjoy regional citizenship in Åland, or by any enterprise, without obtaining permission from the competent authorities of the Åland Islands</p>
France	<p>Pursuant to articles L151-1 and 151-1 et seq of the financial and monetary code, foreign investments in France in sectors listed in article R.151-3 of the financial and monetary code are subject to prior approval from the Minister for the Economy.</p> <p>Pursuant to articles L151-1 and 151-1 et seq of the financial and monetary code, foreign investments in France in sectors listed in article R.151-3 of the financial and monetary code are subject to prior approval from the Minister for the Economy.</p> <p>Limiting foreign participation in newly privatised companies to a variable amount, determined by the government of France on a case by case basis, of the equity offered to the public. For establishing in certain commercial, industrial or artisanal activities, a specific authorisation is needed if the managing director is not a holder of a permanent residence permit.</p>
Italy	<p>The Government may exercise certain special powers in enterprises operating in the areas of defence and national security, and in certain activities of strategic importance in the areas of energy, transport and communications. This applies to all juridical persons carrying out activities considered of strategic importance in the areas of defence and national security, not only to privatised companies. If there is a threat of serious injury to the essential interests of defence and national security, the Government has following special powers to:</p> <ul style="list-style-type: none"> (a) to impose specific conditions in the purchase of shares; (b) to veto the adoption of resolutions relating to special operations such as transfers, mergers, splitting up and changes of activity; or (c) to reject the acquisition of shares, where the buyer seeks to hold a level of participation in the capital that is likely to prejudice the interests of defence and national security. <p>Any resolution, act or transaction (such as transfers, mergers, splitting up, change of activity or termination) relating to strategic assets in the areas of energy, transport and communications shall be notified by the concerned company to the Prime Minister's office. In particular, acquisitions by any natural or juridical person outside the European Union that give this person control over the company shall be notified.</p> <p>The Prime Minister may exercise the following special powers:</p> <ul style="list-style-type: none"> (a) to veto any resolution, act and transaction that constitutes an exceptional threat of serious injury to the public interest in the security and operation of networks and supplies; (b) to impose specific conditions in order to guarantee the public interest; or (c) to reject an acquisition in exceptional cases of risk to the essential interests of the State.

	The criteria on which to evaluate the real or exceptional threat and conditions and procedures for the exercise of the special powers are laid down in the law.
Latvia	The acquisition of rural land by nationals of the United Kingdom or of a third country.
Lithuania	Enterprises, sectors and facilities of strategic importance to national security. Any measure which is consistent with the commitments taken by the European Union and which are applicable in Lithuania in GATS with respect to land acquisition. The land plot acquisition procedure, terms and conditions, as well as restrictions shall be established by the Constitutional Law, the Law on Land and the Law on the Acquisition of Agricultural Land. However, local governments (municipalities) and other national entities of Members of the Organisation for Economic Co-operation and Development and North Atlantic Treaty Organization conducting economic activities in Lithuania, which are specified by the constitutional law in compliance with the criteria of European Union and other integration which Lithuania has embarked on, are permitted to acquire into their ownership non-agricultural land plots required for the construction and operation of buildings and facilities necessary for their direct activities.
Malta	Malta reserves the right to adopt or maintain any measure with respect to the supply of privately funded higher education services.
Poland	Preferential conditions for establishment or the cross-border supply of services, which may include the elimination or amendment of certain restrictions embodied in the list of reservations applicable in Poland, may be extended through commerce and navigation treaties.
Portugal	Waiving nationality requirements for the exercise of certain activities and professions by natural persons supplying services for countries in which Portuguese is the official language (Angola, Brazil, Cape Verde, Guinea-Bissau, Equatorial Guinea, Mozambique, São Tomé & Príncipe, and East Timor).
Romania	Romania reserves the right to adopt or maintain any measure with respect to the supply of privately funded higher education services.
Slovakia	The majority of the members of the board of directors of an establishment providing privately funded education services must be nationals of that country. EEA residency is required for suppliers of all privately funded education services other than postsecondary technical and vocational education services. An economic needs test may apply and the number of schools being established may be limited by local authorities Foreign companies or natural persons may not acquire agricultural and forest land outside the borders of the built-up area of a municipality and some other land (e.g. natural resources, lakes, rivers, public roads etc.).
Slovenia	The majority of the members of the board of directors of an establishment providing privately funded secondary or higher education services must be Slovenian nationals (CPC 922, 923).
Sweden	Sweden reserves the right to adopt or maintain any measure with respect to educational services suppliers that are approved by public authorities to provide education. This reservation applies to privately funded educational services suppliers with some form of State support, inter alia educational service suppliers recognised by the State, educational services suppliers under State supervision or education which entitles to study support
UK	All educational services which receive public funding or State support in any form, and are therefore not considered to be privately funded. Where the supply of privately funded education services by a foreign provider is permitted,

	participation of private operators in the education system may be subject to the granting of a concession allocated on a non-discriminatory basis
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Appendix B Non-conforming measures for entry and temporary stay of natural persons for business purposes.

	ANNEX 21: BUSINESS VISITORS FOR ESTABLISHMENT PURPOSES, INTRA-CORPORATE TRANSFEREES AND SHORT-TERM BUSINESS VISITORS
EU	Intra-corporate transferees need to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound. Until 31 December 2022 any charge, fee or tax imposed by a Party (other than fees associated with the processing of a visa, work permit, or residency permit application or renewal) on the grounds of being allowed to perform an activity or to hire a person who can perform such activity in the territory of a Party, unless it is a requirement consistent with paragraph 3 of SERVIN 4.1 [Scope and definitions], or a health fee under national legislation in connection with an application for a permit to enter, stay, work, or reside in the territory of a Party.
Austria	Business visitor for establishment purposes and intra-corporate transferees need to work for an enterprise other than a non-profit organisation, otherwise: Unbound
Croatia	Natural persons who have been a partner in an enterprise do not qualify to be transferred as intra-corporate transferees. Work permit, including economic needs test, required in case the short-term business visitor supplies a service.
Cyprus	Permissible length of stay: up to 90 days in any twelve month period. Business visitor for establishment purposes needs to work for an enterprise other than a non-profit organisation, otherwise: Unbound. Work permit, including economic needs test, required in case the short-term business visitor supplies a service.
Czech Republic	Business visitor for establishment purposes and intra-corporate transferees need to work for an enterprise other than a non-profit organisation, otherwise: Unbound
Denmark	Work permit, including economic needs test, required in case the short-term business visitor supplies a service.
Finland	Senior personnel needs to be employed by an enterprise other than a non-profit organisation.
Latvia	For short-term business visitors, work permit required for operations/activities to be performed on the basis of a contract.
Malta	For short-term business visitors, work permit required. No economic needs tests performed.
Slovakia	Business visitor for establishment purposes and intra-corporate transferees need to work for an enterprise other than a non-profit organisation, otherwise: Unbound. Work permit required for business visitor for establishment purposes, including economic needs test. In case of short-term business visitors supplying a service in the territory of Slovakia, a work permit, including economic needs test, is required beyond seven days in a month or 30 days in calendar year.
Slovenia	For short-term business visitors, single residency and work permit is required for the supply of services exceeding 14 days at a time and for certain activities (research and design; training seminars; purchasing; commercial

	transactions; translation and interpretation). An economic needs test is not required.
UK	Business visitor for establishment purposes needs to work for an enterprise other than a non-profit organisation, otherwise: Unbound.

	ANNEX 22: CONTRACTUAL SERVICE SUPPLIERS AND INDEPENDENT PROFESSIONALS
EU	<p>Intra-corporate transferees need to be employed by an enterprise other than a non-profit organisation, otherwise: Unbound.</p> <p>Contractual Service Suppliers: in higher education services, EU Member States except Luxembourg and Sweden are not bound by the provisions of the agreement.</p> <p>Intra-corporate transferees: in higher education services, EU Member States except Sweden are not bound by the provisions of the agreement.</p>
Luxembourg	Provisions for contractual service suppliers are only applicable to university professors.
Sweden	Provisions for contractual service suppliers and intra-corporate transferees are not applicable to publicly funded and privately funded educational services suppliers with some form of State support.
UK	Contractual Service Suppliers and intra-corporate transferees: in higher education services, the UK is not bound by the provisions of the agreement.