

Working paper - 'Teachers' rights: national, comparative and international scope of teachers' rights and legal status'

1. Introduction: Why should we care about teachers' rights?

A recent report of the International Labour Organisation (ILO) states: “*Education is not a commodity; it is a fundamental human right, a public good and a public responsibility*”¹. Assuming no one disputes the foregoing, the next insight may be usefully added: research shows that teachers are key to educational quality and success.² Taking this into account any discussion concerning education should consider the role of teachers as they are fundamental in ensuring and improving (the right to) education. Several studies show that quality learning is built on motivated and well-supported qualified education staff that can rely on strong and adequately-resourced education institutions.

The crucial role assigned to teachers in the implementation of the right to education seems never been under discussion. This may be evidenced by, among other things, Art. 13(2) of the International Covenant on Economic, Social and Cultural Rights: “*The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: [...] (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*” Thus, “*trained teachers receiving domestically competitive salaries*” are a key feature concerning the right to education to be ensured by the member states.³

Nevertheless, we should admit that, at both international and national level, the profession of teachers has not always been approached with sufficient attention. Yet at the same time it seems the tide is currently turning. Prominent international organizations, including UN agencies, such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the Organisation for Economic Co-operation and Development (OECD), expressed renewed focus on quality teaching, aptly acknowledging teachers as a pivotal factor in delivering quality education.⁴ As qualified teachers are key in achieving inclusive and equitable quality education and lifelong learning opportunities for all, there is also a connection with the UN Sustainable development goals (Cf. SDG 4). Furthermore, the number of measures adopted by some countries witnesses the growing realization that

¹ Conclusions of the Technical meeting on the future of work in the education sector in the context of lifelong learning for all, skills and the Decent Work Agenda, 17-21 May 2021, https://www.ilo.org/wcmsp5/groups/public/--ed_dialogue/--sector/documents/meetingdocument/wcms_802472.pdf.

² E.g. positive impact between (i) teacher quality and student performance (Hanushek, E. A., Schwerdt, G., Wiederhold, S., Woessmann, L. (2015), *Returns to skills around the world: Evidence from PIAAC*, European Economic Review, 73, 103-130) or, (ii) effective teaching and learning gaps for disadvantaged students (Hanushek, E. A, Rivkin, S.G. (2010), *Generalizations about Using Value-Added Measures of Teacher Quality*, American Economic Review 100/2, 267–271). See more in general: OECD (2011), *Building a High Quality Teaching Profession-Lessons from Around the World. Background Report for the International Summit on the Teaching Profession*, OECD 2011.

³ Committee on economic, social and cultural right, General Comment No. 13, 2-3, 7, 11; Recommendation CM/Rec(2012)13 on the Committee of Ministers to member States on ensuring quality education, 12 December 2012.

⁴ Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (2021), *Final Report Fourteenth Session*, CEART/14/2021/10, Geneva, 7-8.

enhancing the status of the teaching profession is essential to improve the attractiveness of the profession and ensure the retention of the existing staff.

Finally, to emphasize once more the importance of addressing teachers' rights, let's not forget that the teaching profession, as many other professions and society more in general, is evolving rapidly. It's therefore important to pay attention to this exceptional occupation in a permanent and persistent manner.

2. International framework re. teachers' rights

From an international perspective, two instruments establish the main standards to protect the status and conditions of teachers around the world. In 1966 the *ILO/UNESCO Recommendation concerning the Status of Teachers* was adopted. The 1966 Recommendation relates to the status and conditions of primary and secondary school teachers.⁵ To complement the 1966 Recommendation, the General Conference of UNESCO in 1997 adopted the *Recommendation Concerning the Status of Higher-Education Teaching Personnel*. Both documents were pioneering and encouraged many different states to engage with their national legislation.

These recommendations are soft law instruments. In other words: they do not contain legally binding provisions. However, the recommendations hold significant persuasive authority. Every Member States of ILO and UNESCO is required to acquaint themselves with its provision. Furthermore, ILO and UNESCO are urging these member states to implement the recommendations in their national legislation.⁶

Of course, next to these very important recommendations, some more general standard setting instruments are equally applicable to teachers. Within the ILO, for example, we can refer to the conventions No. 87 on Freedom of Association and Protection of the Right to Organize or No. 98 on the Right to Organize and Collective Bargaining. Within UNESCO conventions such as the Convention against Discrimination in Education or the Recommendation on the Recognition of Studies and Qualifications in Higher Education apply.

This paper focuses on the 1966 Recommendation.

3. Recommendation concerning the Status of Teachers: capita selecta

(i) General overview

The 1966 Recommendation has a broad scope encompassing teachers at all levels of schooling up to the secondary level, across diverse institutional contexts, including both public and private schools. The normative significance of the Recommendation is underscored by the fact that it expresses the need for the application of a set of uniform standards and measures. The Recommendation incorporates detailed provisions delineating the responsibilities of teachers, the preparation for the profession, professional freedom, as well as job security, rights of teachers, working hours, remuneration and professional development.

Any analysis of the recommendations should pay due attention to the Joint Committee of Experts on the Application of the Recommendations concerning Teaching Personnel

⁵ More recently, in 2014, the ILO Governing Board adopted policy guidelines on the promotion of decent work for early childhood education personnel.

⁶ See for example *infra* 3(i).

(CEART). Comprising 12 autonomous experts, the committee convenes triennially. Its dual mandate involves both advocating for and overseeing the adoption of the recommendations. To this end, its responsibilities encompass two key aspects: firstly, it submits reports detailing the application of the recommendations, forwarding its findings to entities such as the ILO Governing Body and the UNESCO Executive Board; secondly, it addresses allegations of non-compliance with the recommendations. The outcomes of their assessments and proposals are relayed to the governing bodies of ILO and UNESCO for the purpose of resolving such issues.⁷

which is a committee of 12 independent experts who meet every three year. The Committee both promotes and monitors the implementation of the Recommendations. There tasks are twofold: (i) They report on the application of the recommendations and they issue there findings in this respect to e.g. ILO Governing body and the UNESCO Executive Board, (ii) Secondly, they address allegations on the non-observance of the Recommendations. Their findings and recommendations are conveyed to the governing bodies of the ILO and UNESCO for the resolution of the problem. All the documents of the Committee can be found online via this link.

Research has shown that several elements are at play in attracting future teachers. It is not surprising that decent working conditions are an important consideration in making this decision. These include pay⁸ and working time, while autonomy also has an important impact. Less easily verifiable aspects, such as collaboration at work, are also important. Working conditions have also proven to be an important element in the decision to stay in teaching.⁹ Thus, Working conditions are essential in both attracting and retaining teachers.¹⁰

Below, a selected number of working conditions which are also addressed by the Recommendation will be discussed.

(ii) Legal status

A diminishing proportion of teachers are in permanent employment and/or enjoy civil servant status. Generally, this encompasses slightly more than fifty percent of teachers. Nevertheless, available data exhibit disparities across geographical areas and educational levels.¹¹ The remaining teachers operate under a limited or fixed-term contract or in some other form of legal working, mostly for very short term assignments. Some scholars have already argued that the considerable growth of fixed-term contracts signals a

⁷ The committee's activities can be accessed via <https://www.ilo.org/global/industries-and-sectors/education/ceart/lang-en/index.htm>.

⁸ OECD (2019). *Working and Learning Together: Rethinking Human Resource Policies for Schools*, OECD Reviews of School Resources. Paris: OECD Publishing.

⁹ OECD (2020), *Teachers' well-being: a framework for data collection and analysis*, Paris: OECD Publishing; Kraft, M., Papay, J., (2017), *Developing workplaces where teachers stay, improve, and succeed* in Quintero, E. (Ed.) *Teaching in Context*, Harvard Education Press; Barnett Berry, K. C. B., Darling-Hammond, L., Kini, T. (2021), *The Importance of Teaching and Learning Conditions. Influences on Teacher Retention and School Performance in North Carolina*, Learning Policy Institute.

¹⁰See e.g. Doherty, J. (2020), *A systematic review of literature on teacher attrition and school-related factors that affect it*, *Teacher Education Advancement Network Journal* 12(1), 75-85; ILO (2021), *The future of work in the education sector in the context of lifelong learning for all, skills and the Decent Work Agenda, Report for the Technical Meeting on the Future of Work in the Education Sector in the Context of Lifelong Learning for All, Skills and the Decent Work Agenda*, International Labour Office, SECTOR, Geneva: ILO.

¹¹ N. P. Stromquist (2018), *The Global Status of Teachers and the Teaching Profession*, Education International Research, Brussels, 35-36; European Commission/EACEA/Eurydice, (2021), *Teachers in Europe: Careers, Development and Well-being*, Eurydice report, Luxembourg: Publications Office of the European Union.

precariousness of a structural nature, affecting especially the employment stability of young people.¹² Fixed-term contracts have increased rapidly in India and parts of sub-Saharan Africa. Moreover, in these areas, schools are usually staffed by underqualified and unsupported teachers.¹³

The 1966 Recommendation pays attention to job security¹⁴:

“45. Stability of employment and security of tenure in the profession are essential in the interests of education as well as in that of the teacher and should be safeguarded even when changes in the organization of or within a school system are made.

46. Teachers should be adequately protected against arbitrary action affecting their professional standing or career.”

These articles stress job stability and tenure's significance for educational and teacher well-being, even amidst organizational changes. Regrettably, these provisions haven't ensured desired job security.

(iii) Pay¹⁵

Across different nations, teachers' statutory salaries exhibit significant disparities. For example, lower secondary school teachers with 15 years of experience earn less than USD 21 000 in Hungary and the Slovak Republic, while their counterparts in Canada, Germany, the Netherlands, and even Luxembourg command salaries exceeding USD 70 000, with Luxembourg reaching up to USD 100 000.¹⁶ Some populous countries, such as e.g. Indonesia, register very low levels in teacher salaries. A number of European countries report low salaries as well. In Romania, for example, a teacher earns EUR 300 per month during the first year of employment.¹⁷ The proliferation of part-time teaching positions contributes as well to low teacher salaries. Moreover, research shows that there is a pay gap; significant pay differences between men and women teachers are upheld in many countries.¹⁸

Statutory salaries are just one component of teachers' total compensation. Other benefits, such as family allowances or reduced rates on public transport may also form part of teachers' total remuneration. These special allowances and incentive mechanisms often try to reinforce the attractiveness of the teaching profession and address rising demands for education. Likewise, allowances and incentives have been created to encourage teachers to work in isolated, remote and rural areas

The figure below shows that in most countries with starting salaries below the OECD average, maximum salaries usually align likewise. Exceptions at the lower secondary level, include for example Colombia, UK and Portugal. These differences may stem from distinct

¹² OECD (2019), *Working and Learning Together: Rethinking Human Resource Policies for Schools*, OECD Reviews of School Resources, Paris: OECD Publishing.

¹³ UNESCO (2017), *Global Education Monitoring Report 2017/8. Accountability in education: Meeting our commitments*, Paris: UNESCO.

¹⁴ Artt. VII.45-46 Recommendation.

¹⁵ See Artt. X.114-124 Recommendation.

¹⁶ OECD (2022), *Education at a Glance 2022: OECD Indicators*, OECD Publishing, Paris, <https://doi.org/10.1787/3197152b-en>, 330-333.

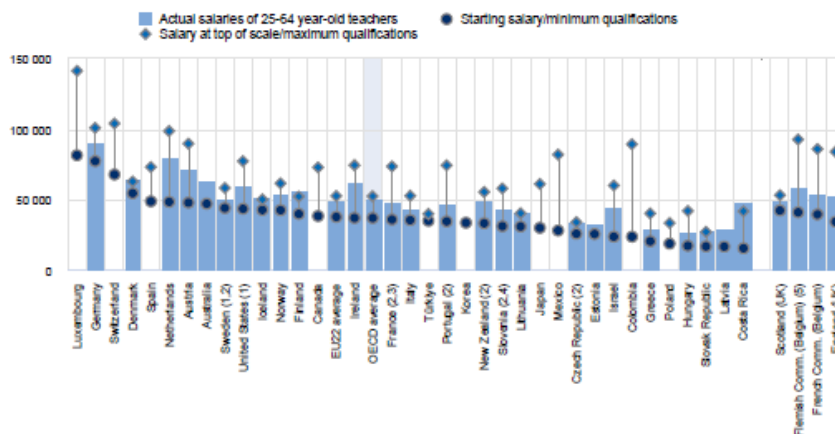
¹⁷ N. P. Stromquist (2018), *The Global Status of Teachers and the Teaching Profession*, Education International Research, Brussels, 21.

¹⁸ N. P. Stromquist (2018), *The Global Status of Teachers and the Teaching Profession*, Education International Research, Brussels, 20.

career paths for differently qualified teachers in these countries. Conversely, in Finland and Iceland, starting salaries surpass the OECD average, yet maximum salaries are lower, reflecting compressed salary scales. In contrast, lower secondary teachers see maximum salaries at least double their starting salaries in for example Costa Rica, France, the French and Flemish Communities of Belgium and the Netherlands.¹⁹

Figure D3.2. Lower secondary teachers' average actual salaries compared to the statutory starting and top of the scale salaries (2021)

Annual salaries of teachers in public institutions, in equivalent USD converted using PPPs



Note: Actual salaries include bonuses and allowances.
 1. Actual base salaries for starting salary and salary at the top of the scale.
 2. Year of reference for actual salaries differs from 2021. Refer to the source table for more information.
 3. Starting salary and salary at the top of the scale include the average of fixed bonuses for overtime hours.
 4. Salaries at the top of the scale and the minimum qualifications, instead of the maximum qualifications.
 5. Salaries at the top of the scale and the most prevalent qualifications, instead of the maximum qualifications.
 Countries and other participants are ranked in descending order of the starting salaries for lower secondary teachers with the minimum qualifications.
 Source: OECD (2022), Table D3.3 and Education at a Glance Database, <http://stats.oecd.org>. See Source section for more information and Annex 3 for notes (https://www.oecd.org/education/education-at-a-glance/EAG2022_X3-D.pdf).

StatLink <https://statlink.oecd.org>

Another remarkable finding is that only in very few countries teacher salaries reach or exceed those of similarly educated workers.²⁰ Notwithstanding the foregoing, research warns against ill-considered increases in teacher pay. While this might result in an increase in attracting and retaining teachers, it would not necessarily lead to better quality teachers.²¹ Still, having competitive pay packages available is an important element in order to recognize and value the status of teachers.

(iv) Working time²²

Despite the complexity of teachers' work, quantifying their workload remains challenging. Yet, international surveys over the last 2 decades reveal relatively stable average working hours. However, we should acknowledge that the array of responsibilities and their intensity has significantly transformed. Consequently, when addressing teacher working time, it is paramount to consider these shifts. This approach ensures a harmonious work-life balance and a commitment to fundamental teaching duties.

¹⁹ OECD (2022), *Education at a Glance 2022: OECD Indicators*, OECD Publishing, Paris, <https://doi.org/10.1787/3197152b-en>, 331-332.

²⁰ OECD (2022), *Education at a Glance 2022: OECD Indicators*, OECD Publishing, Paris, <https://doi.org/10.1787/3197152b-en>, 333.

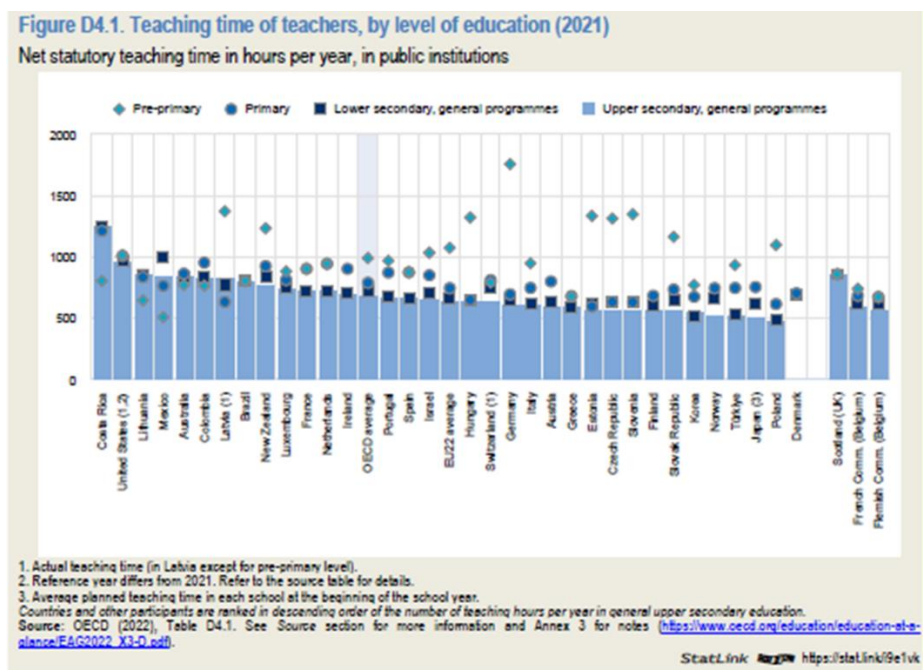
²¹ Hanushek, E. A., Schwerdt, G., Wiederhold, S., Woessmann, L. (2015), *Returns to skills around the world: Evidence from PIAAC*, *European Economic Review* 73, 103-130.

²² See Artt. IX.89-93 Recommendation.

The assessment of working time typically revolves around metrics such as teaching, instruction or classroom contact time or to a statutory working week. With regard to ‘teaching time’, again significant variations exist not only between education levels but also between different countries. Across the OECD, the average is close to 1 000 hours annually for pre-primary education, nearly 800 hours for primary education and approximately 700 hours for secondary education. Zooming in on upper secondary level across different countries, statutory teaching hours span from 483 hours per year in Poland to 1 248 hours in Costa Rica.²³

As indicated, teachers allocate a substantial portion of their working hours to activities beyond teaching, encompassing tasks such as lesson preparation, examination evaluation and all kind of administrative obligations. The way teachers’ total working time is divided between teaching and non-teaching activities varies widely across countries. In general, a heightened portion of statutory working time dedicated to teaching could imply a diminished allocation of time toward activities such as student assessment and lesson preparation. It could also indicate that teachers need to perform these tasks during their personal time, potentially leading to a workload surpassing the requirements stipulated by their statutory working hours.²⁴

Indeed, various national and international surveys have consistently revealed that teachers frequently work on average longer hours than those required by law. Consequently, it is imperative to define a comprehensive total working time that considers the multiple tasks of teachers.



²³ OECD (2022), *Education at a Glance 2022: OECD Indicators*, OECD Publishing, Paris, <https://doi.org/10.1787/3197152b-en>, 21 and 350-362.

²⁴ OECD (2022), *Education at a Glance 2022: OECD Indicators*, OECD Publishing, Paris, <https://doi.org/10.1787/3197152b-en>, 351.

This statistic affirms the above. However, please note that the large variations across countries of course also result from the combination of differences in the length of the school year and in the number of teaching hours per day.

(v) Professional development²⁵

In this section, we will focus on professional development. The initial teacher education will not be analyzed. However, attention will be paid to continuing professional development given the importance of it as this supports teachers at all stages of their careers. Moreover, several studies find that sustained continuing professional development for teachers is correlated with significant learning gains for students. Opportunities for continuing professional development activities also help to retain high-quality teachers in the teaching profession, particularly in marginalised schools.²⁶

Continuing professional development is mandatory to varying degrees for teachers of general subjects in most countries, at least at one education level. It can be either generally compulsory for all teachers as a regular part of their work, or for some teachers for specific purposes such as promotion or salary increases, and occasionally, for both.²⁷ In my perspective, not only the importance of lifelong learning may be stressed, but also a more general implementation of it should be welcomed. Continuing (quality) professional development is indispensable in a rapidly evolving educational field.

(vi) Freedom of association²⁸

The Recommendation of 1966 attaches great importance to social dialogue between teachers' organizations and the employers both with respect to e.g. salaries and working conditions. Most of the time, governments allow teacher unions to engage in collective bargaining. Nevertheless, in some countries engaging in collective bargaining is very hard, restricted or related to some very specific areas. This applies for example for Switzerland and the UK. Furthermore, teacher unions in several African countries, such as e.g. in Cameroon, are not allowed to negotiate salary conditions. In a few countries across the world, teacher unions are "never" allowed to negotiate working conditions, e.g. in Greece and Togo.²⁹

The right to strike serves as a powerful tool employed by unions as a last resort during negotiations with employers, more particularly when these negotiations are failing. This right is explicitly recognized in most countries, extending to teachers as well. To prevent strikes, some governments (e.g., Argentina) follow anti-strike strategy involving hiring substitutes during strikes and providing additional payments to non-striking teachers. Some countries impose a general ban to strike, often encompassing civil servants. However, according to the Committee of Experts on the Application of Conventions and Recommendations (CEACR), a body set up to monitor ILO standards, such a broad

²⁵ See. Artt. VI.31-37 Recommendation.

²⁶ Holloway, J. (2006), *Connecting Professional Development To Student Learning Gains*, Science Educator, 37-43; Yoon, K. et al. (2007), *Reviewing the Evidence on How Teacher Professional Development Affects Student Achievement*; Darling-Hammond, L. et al. (2017), *Effective Teacher Professional Development*, Learning Policy Institute May 2017, 1-8; Geiger, T., M. Pivovarov (2018), *The effects of working conditions on teacher retention*, Teachers and Teaching 24/6, 604-625, <https://doi.org/10.1080/13540602.2018.1457524>.

²⁷ OECD (2022), *Education at a Glance 2022: OECD Indicators*, OECD Publishing, Paris, <https://doi.org/10.1787/3197152b-en>, 388-389.

²⁸ See e.g. Artt. VIII.79-84 Recommendation.

²⁹ N. P. Stromquist (2018), *The Global Status of Teachers and the Teaching Profession*, Education International Research, Brussels, 76-78.

prohibition cannot be applied to teachers. They also observed that replacing striking teachers in primary and secondary education, exemplified by the Republic of North Macedonia, posed a serious obstacle to the lawful exercise of the right to strike.³⁰

4. Conclusions on the way forward

The Recommendation covers numerous issues that have consistently remained pertinent within the teaching profession over the past decades. However, it's important to acknowledge certain areas where the coverage falls short. Furthermore, it's worth noting that the recommendations are not universally observed, especially in a number of countries.

There is a growing awareness of the need to revise the recommendations, as e.g. indicated by the recent report from CEART.³¹ For example, topics such as equal treatment, decent work, health and safety, social dialogue, and professional learning and development merit heightened attention. At least certain parts of the recommendation deserve rethinking given, for example, international labour standards or in response to the evolving educational demands placed on teachers.

The significance of education, and by extension, teachers, within our society cannot be overstated. As highlighted in the introductory section, the connection between the right to education -a fundamental right that underpins other human rights- and the role of teachers is readily apparent. In fact, the right to quality education hinges upon the ability to attract and retain adequately qualified personnel. UNESCO has consistently emphasized the pivotal role of teachers in realizing the right to education. Particularly in the realm of education, human capital holds a priceless role in ensuring access to quality education.

With many countries affected by an increasing teacher shortage, a stance of passivity is no longer acceptable. The potential repercussions are not limited to the erosion of the right to quality education but extend to compromising equal educational access. Hence, it becomes imperative to thoroughly reassess the status of teachers. Although many countries are already taking measures, it's crucial to ensure that these measures are both forward-looking and grounded in evidence and data. If anything can be gleaned from these emergency actions, it is the lack of data, evidence and scientific research regarding the (legal) status of teachers. Nonetheless, amidst these challenges, it may be clear that there is no single solution to overcome such problems. Additionally, outdated regulations and conceptions within the education sector often poses a hurdle.

The foregoing, once again, reiterates the necessity of an international framework that contemplates education and the teaching profession through a contemporary lens. Back in 1966, the Recommendation underscored the significance of attracting, retaining and promoting (lifelong) learning of teachers. The value of a sound legal framework that incorporates both the rights and responsibilities of teachers is an essential element in achieving these objectives, marking a pivotal step towards their practical implementation.

Obviously, the steps forward and measures taken by various countries to strengthen the position of teachers are to be welcomed. These actions affirm that policymakers recognize the inadequacy of the existing framework in meeting the needs of current and future

³⁰ CEACR (2021), *Observations on North Macedonia regarding the Freedom of Association and Protection of the Right to Organise Convention*, 1948 (No. 87).

³¹ Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (2021), *Final Report Fourteenth Session*, CEART/14/2021/10, Geneva.

teachers. However, whether these actions suffice to swiftly address the structural shortage is a distinct matter.

The momentum seems to have arrived for the creation of an updated version of the recommendation, nearly 60 years after its conception. This new instrument can serve as a minimum standard but also as a source of inspiration for countries. These standards have shown to have the main advantage that they are at the same time sufficiently broadly defined to enable policymakers to adapt the regulations to the concrete challenges they are facing in areas such as, for example, the labor market or education. Yet, they also offer sufficiently concrete guidance to chart a constructive path forward.