

**Reforms and Consequences in Higher Education  
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**Recent trends in European Higher Education**

Alberto Amaral

## Recent trends in European Higher Education

Alberto Amaral, CIPES and University of Porto

*As the demand for higher education continues to grow and as governments acknowledge their role in promoting economic development, it becomes increasingly important to ensure that higher education systems are managed in an effective way.*

*...The reforms in higher education governance in recent years are driven by the same external and internal pressures and are largely following the same pattern.*

*World Bank, 2008*

*Far-reaching reforms are needed to enable European universities to meet the challenges of the knowledge society and of globalisation. Without a change in the governance and leadership of their institutions and systems, the European universities will not be able to deal with all the current technological, economic and demographic challenges.*

*Directorate-General for Higher Education and Culture, 2006*

*Member States... need to create the necessary conditions to enable universities to improve their performance, to modernise themselves and to become more competitive.*

*European Commission, 2006*

*Despite the broad trends... to give greater autonomy to higher education institutions, these changes have often been accompanied by new mechanisms for monitoring and controlling performance, quality and funding. Thus... higher education reform... has often substituted one form of influence and control by government for another.*

*OECD, 2003.*

### ABSTRACT

In many European countries there a number of recent reforms aiming at increasing the efficiency of higher education institutions and promoting their responsiveness towards society's needs and demands. Several countries are creating more stratified higher education systems by strongly investing in a limited number of research universities to increase their capacity for competing in a globalised world. These reforms present some common trends such as increasing institutional autonomy, reinforcing the power of central administration, decreasing collegiality, changing quality systems from improvement to accreditation and diversifying funding sources. New Public Management is playing an increasing role in the public sector, including higher education institutions. Markets (or quasi-markets) are more and mre used as instruments of public policy. The European Commission – namely using the implementation of the Bologna process and the Lisbon strategy – and the OECD are also influencing reforms at a supranational level. Examples of these changes are provided and a critical analysis is presented.

## Introduction

The increasing economic globalisation process created new challenges for higher education institutions, which are facing diversified pressures that impact on their relationship with society and their management and governance systems.

Starting in 1944 with the Bretton Woods conference where the World Bank (WB) and the International Monetary Fund (IMF) were established, and being reinforced by the Washington consensus and the contribution of the World Trade Organization (WTO), national trade barriers were progressively removed and a global economy emerged. It is fascinating that some economic ideas that are “en vogue” today were developed in the XVIIIth and early XIXth centuries: Adam Smith (1723-1790) is credited with the idea of the invisible hand of the market and David Ricardo (1772-1823) was the first proponent and paladin of unrestricted trade and free commerce.

The idea that the free flow of goods and capital is the highway to universal prosperity and peace has been used as an argument by many neo-liberal ideologues. As referred by Jones (1998), Goldmann (1994) draws on the work of Silberner (1946) to state that free trade would contribute to the material prosperity of nations and to the intellectual progress of mankind, as well as to reducing or even eliminating the risk of war. To promote the virtues of free trade and the market, powerful images have been used such as those derived from ‘trickle down theories’ – filling the table of corporations over the limits of debauchery will result in some of the excess of riches trickling down to the working classes – or common sense water level effects – all boats will come up at the same time with the tide.

Globalisation and New Right policies had a considerable effect upon education. In recent years there was “an increasing colonisation of education policy by economic policy imperatives” (Ball 1998) that provoked a change of the traditional pact between university and society by shifting the emphasis away from the social and cultural functions of the university and in favour of its economic function.

The changes taking place are not only structural adjustments. There are changes of ideology and of values, and significant changes in the relationship between higher education institutions and the state and society. Education is today considered more as an indispensable ingredient for economic competition and less as a social right, and it is becoming progressively a service: “... Students are considered consumers and asked to pay higher fees” (Torres and Schugurensky 2002). Governments implemented policies to make institutions more responsible to outside demands and to ensure that education and research are ‘relevant’ for the national economy. “The market rationale includes a demand-driven orientation, introducing short cycles and emphasis on vocationalization”

(Torres and Schugurensky 2002). The Bologna process being implemented in Europe also places a strong emphasis on the contribution of higher education to the employability of graduates.

The academy no longer enjoys great prestige on which higher education can build a successful claim to political autonomy (Scott 1989). There was a gradual proletarianisation of the academic professions – an erosion of their relative class and status advantages (Halsey 1992). The development of academic capitalism (Slaughter 1997) and institutional patent policies also made faculty more like all other workers... making faculty, staff and students less like university professionals and more like corporate professionals whose discoveries are considered work-for-hire, the property of the corporation, not the professional. The introduction of market-like mechanisms of competition forced professors, departments, and faculties to increasingly engage “in competitive behaviour similar to the one prevailing in the marketplace for funding, grants, contracts, and student selection and funding” (Torres and Schugurensky 2002).

Traditional university governance became a target of fierce criticism, and the multi-secular tradition of collegial governance is today considered inefficient and corporative. Many governments yielded to the temptation of improving university management “by a series of external interventions, implemented largely top-down, and drawn in the main from the management practices and reward systems of other kind of organisations” (Chris Duke 1992). The European Commission and supranational organisations such as the OECD and the World Bank strongly support changes that will replace the traditional collegial modes of university governance with “more efficient and effective” governance models.

These models were imported from the corporate world trying to replace the slow, inefficient decision making processes of academic collegiality by the “fast, adventurous, carefree, gung-ho, open-plan, computerised, individualism of choice, autonomous enterprises and sudden opportunity” (Ball 1998). The reinforced presence of external stakeholders in university governance was the final step towards the creation of devices responsive to the ‘external world’ (Magalhães and Amaral 2000). Appointed Presidents with sound managerial curricula are progressively replacing elected academics at the rudder of the university vessel. Institutions should become more flexible, more autonomous to respond to changes in the organisational environment.

In the first part of the paper the rationales that support changes taking place in higher education systems and their institutions are examined. In the second part of the paper examples of recent European developments are presented and critically analysed.

## Part I – The rationales for change

### The increasing role of the market

Over the last two decades governments are more and more using market-like mechanisms as instruments of public regulation (Dill *et al* 2004). Governments assumed that market-like competition was the solution to reform the sclerotic behaviour of public services, forcing them to increase their efficiency (Ball, 1998). In Europe, the Bologna Declaration, by “redefining the nature and content of academic programmes, is transforming what were once state monopolies over academic degrees into competitive international markets” (Dill *et al*, 2004: 330).

David Dill presents an operational definition of the market:

*(...) Formally speaking a market is a means of organising the exchange of goods and services based upon price, rather than upon other considerations such as tradition or political choice (David Dill 1997: 168).*

However, the efficient use of market regulation presents a number of problems. For the allocation of goods and services to be “optimally efficient for the larger society” (Leslie and Johnson 1974) the market needs to be perfectly competitive, which implies a number of conditions that are very difficult to fulfil. The other question has to do with the idea of “free markets” which is so attractive to neo-liberals. All markets are to some extent regulated by the state as, “in the absence of such surveillance mechanisms private sector opportunism and corporate self-interest would severely distort the alleged smooth adjustment process of supply and demand (Boyer and Drache 1996). And one might even conclude that “... the only “free” markets, in the sense that they are unregulated by government, are ‘black’ or illegal markets, but, since they by definition operate outside the law, they are also in fact subject to government regulation” (Dill *et al*, 2004: 328).

Both government and market regulation may lead to inefficient action, as it is well documented in the literature. Non-market or government failures are related to the fact that sometimes the government and its agencies are incapable of perfect performance in designing and implementing public policy, because of defects of representative democracy and inefficiencies of public agencies to produce and to distribute goods and services (Dill 1997: 175; Van Vught 1997: 220).

Market failures are the shortcomings of markets (Van Vught, 1997: 220) when confronted with certain goods and conditions, namely the production of goods that show large externalities, as is the case of education. The concept of externality is used to compare the social and private benefits of any activity, and can be technically defined as

the benefit received by society beyond the individual private benefit. Society derives advantages from a well educated and well trained population, such as increased economic competitiveness, improved social mobility, transmission of social values, social cohesion, etc., and this distinguishes education from a merely private good (Thys-Clément, 1995). As the market is a means of organising the exchange of goods and services based upon price, additional social benefits (externalities) will tend to be ignored, or to be too little taken into account by market mechanisms.

Other sources of market failures are the tendency of a free market to build monopolies, resulting in inefficient outcomes — in general government regulation outlaws this kind of development in order to protect consumers —, or the so called 'market imperfections' (Van Vught, 1997: 221) such as prices not reflecting product scarcities and insufficient or asymmetric information.

For a market to work efficiently, producers and consumers need to have 'perfect information'. Consumers should make rational decisions, which implies a good knowledge of the price and characteristics of goods and services to be purchased, including quality and price, as well as the market conditions. However, in many cases, the relevant information is not available (imperfect information) or the producer has much more detailed knowledge than the consumer (asymmetric information).

The information problem is very acute in the case of higher education, which has three simultaneous characteristics:

- a) It is an experience good;
- b) It is a rare purchase;
- c) It has very high opting-out costs.

In the case of pure commodities and/or search goods, namely those frequently purchased, the consumer can get enough information for making reasonably informed decisions. In many cases the consumer can even try or taste the good before the purchase and if a bad decision is made it is quite easy to buy from an alternative producer in the next purchase. However, in the case of experience goods – and education is one of them – their relevant characteristics can only be effectively assessed by consumption. It is only after a student starts attending a study programme that he gets a real idea of what he has purchased in terms of quality, professors, and the general value of its educational experience.

The second characteristic is higher education's low purchasing frequency. In most cases a student enrolls in a single study programme throughout its professional life. Even if life-long learning is becoming more popular, it consists in general of small modules, not full-length study programmes. Therefore, the consumer cannot derive market experience from frequent purchases.

The third characteristic is that opting-out – meaning changing to another programme and/or institution – is in general quite expensive and may not be an easy or wise option.

The confluence of these three characteristics of education legitimates a regulatory hand of the government to promote consumer protection, and this includes different forms of information, such as licensing, accreditation, and the provision of information on the quality of goods and services (Smith 2000).

### **Immature clients and quasi-markets**

David Dill considers that “students lack sufficient information about the quality of academic institutions or programs to make discriminating choices” (1997: 180), as what they need is the measure of prospective future earnings provided by alternative academic programmes and not “(...) peer review evaluation of teaching processes, nor subjective judgements of the quality of a curriculum” (*ibid*). However, David Dill considers students are immature consumers, meaning that even if this kind of data were available, many students (or their families) would not use it, which questions the validity of rational economic choices:

*Because (potential) students are uncertain about the actual contents of the study, getting a degree and finding a proper job after graduation, the decision to attend higher education and to select a particular program is surrounded with a lot of uncertainty. ... psychological phenomena form a “filter” or a mental framework through which students judge financial incentives in relation to their study choices. (Vossensteyn 2005)*

The existence of immature consumers is one rationale for “the implementation of quasi-markets, rather than consumer-oriented markets, for the distribution of academic programs” (Dill 1997: 181). Cave and Kogan (1990: 183) consider that a quasi-market is in operation when goods or services, instead of being bought by their final users, are bought by an agent (in general a public agent) on behalf of clients to whom these goods and services are then allocated directly.

In several cases – examples can be found in health and education – governments resorted to quasi-markets as a tool to create competition. It is assumed that the state through a government agency is more capable of protecting the interests of immature consumers than consumers themselves. Therefore, the state is no longer a provider of higher education but assumes a role as principal representing the interests of consumers by making contracts with competing institutions. This creates a quasi-market in which the state becomes a purchaser of services from independent providers, which compete with each other in an internal market (Le Grand and Bartlett 1993).

## Quasi-markets and the principal-agent dilemma

Government agencies making purchases in the name of consumers face the classical principal-agent dilemma: “how the principal [government] can best motivate the agent [university] to perform as the principal would prefer, taking into account the difficulties in monitoring the agent’s activities” (Sappington 1991: 45 cited in Dill and Soo 2004: 58).

That explains why a number of governments have been introducing an increasing number of performance indicators and measures of academic quality to control the behaviour of the agents. In the UK, control mechanisms included an extremely detailed framework of devolved performance criteria against which operational efficiency and effectiveness at unit level would be monitored and assessed (Reed 2002). Performance indicators were extensively developed in the UK when Margaret Thatcher was the Prime Minister, the so-called 3Es of the public sector management (Sizer 1990) – **E**conomy in the acquisition and use of resources; **E**fficiency in the use of resources; **E**ffectiveness in the achievement of objectives. Sets of indicators were selected for diverse public services such as health, social security and education and were measured and compared between as well as within organisations (Henkel 1991). And Reed states:

*Within the context of much more intrusive and pervasive performance management, a consistent emphasis on the detailed monitoring and evaluation of ‘quality’ standards in service delivery and outcomes emerged as the overriding priority (Reed 2002: 163).*

However, the use of performance indicators for education is rather delicate, being difficult to define “good” indicators (Sizer 1989). In general, performance indicators suggested for education are rather removed from the concept they intend to measure, and most of them are linked either to efficiency – such as student/staff ratios, cost per student, cost per degree awarded – or to effectiveness, such as number of graduations, employment data, etc. (Sizer 1989, Weert 1990).

Higher education is a positional good (Marginson 1998) in the sense that it provides students with a competitive advantage when looking for employment, social standing and prestige. Therefore, information used by students tends to be much focused on academic reputation and prestige:

*Positional competition is not about the intrinsic content of education but its symbolic value. In a competitive market educational quality is subjectively defined. Quality tends to be determined by where the status goods are found, rather than status determined by quality... The quality of teaching and learning is incidental, except as a post hoc rationalisation of elite placement (Marginson 1998: 84).*

Better information is also important for producer effectiveness: “Information on the quality of a product provides an incentive for producers to invest in quality improvements

and thereby better compete in the market” (Dill and Soo 2004: 61). Dill and Soo raise a very interesting hypothesis:

*Both principals and student consumers may have imperfect information about the true quality of academic programmes – that is, the value added they provide to the student and ultimately to society – but, because of the distinctive properties of universities, the producers may have imperfect quality information as well. Because of traditions of academic autonomy and specialisation, professors may also lack sufficient information to judge the quality of academic programmes and may as a consequence fail to improve them (Dill and Soo 2004: 52).*

### **New Public Management and the loss of trust**

Any specific discussion of higher education management needs to be set within the broader context of New Public Management (NPM) and related concepts, such as new managerialism and reinventing government (Osborne and Gaebler 1992), which have been present in many public sector reforms over the last two decades. As Denhardt and Denhardt (2000) note, “The New Public Management has championed a vision of public managers as the entrepreneurs of a new, leaner, and increasingly privatised government, emulating not only the practices but also the values of business”.

Over the last two decades, the intrusion of the rhetoric and management practices of the private sector into higher education resulted in important changes in the operation of higher education institutions. This phenomenon, which has been interpreted by several authors using concepts such as “managerialism” (Miller, 1995; Amaral, Magalhães and Santiago, 2003) “new managerialism” or “new public management” (Meek, 2002; Deem, 1998, 2001; Reed, 2002), is associated with the emergence of market or quasi-market modes of regulation.

Under NPM the public are clients of government, and administrators should seek to deliver services that satisfy clients. In higher education, too, students are referred to as customers or clients, and in most higher education systems quality assurance and accountability measures were put in place to ensure that academic provision meets client needs and expectations. According to Considine (2001: 1), “universities are currently being ‘enterprised’ by a powerful logic of managed performance, executive centralisation and a new code of corporate governance”. The ‘ism’ in managerialism (Trow 1994: 11) “points to an ideology, to a faith or belief in the truth of a set of ideas which are independent of specific institutions”. That ‘ism’ becomes pejorative once it implies control over the academic products of the university by those not directly involved in their creation (Meek 2002).

Based largely on the neo-liberal ideology, this movement from the public good concept of knowledge to one of commercialisation and ‘private’ ownership challenges many traditional academic values, particularly those associated with how the institution

should be structured and controlled (Meek 2002). One consequence of NPM policies was a strong attack on professions, and specifically on the academic profession:

*By imposing market competition through political dictate and administrative fiat, the ideology of 'new managerialism' attempted to destroy, or at least weaken, the regulatory structures that had protected unaccountable professional elites and their monopolistic labour market and work practices across the full range of public sector service provision throughout the 1980's and 1990's" (Reed 2002: 166).*

The 'de-professionalisation' of academics was coupled with a claim to professional status by administrative staff. Thirty years ago administrators were "very much expected to operate in a subservient supportive role to the academic community, very much in a traditional Civil Servant mould" (Amaral *et al* 2003: 286) and in the meetings of academia they were expected to be seen but not to be heard. Today, managers see themselves as essential professional contributors to the successful functioning of the contemporary university.

The advocates of 'new managerialism' claimed the introduction of market mechanisms in the management of public services "... would provide that imperative drive towards operational efficiency and strategic effectiveness so conspicuously lacking in the sclerotic professional monopolies and corporate bureaucracies that continued to dominate public life (Osborne and Gaebler 1992; DuGay 1994, 2000; Maddock and Morgan 1998)" (Reed 2002: 166). However, the emergence of NPM and the attacks on the efficiency of public services, including higher education, resulted in loss of trust in institutions (Martin Trow, 1996) and demands for more accountability. Martin Trow (*ibid*) suggests that accountability is an alternative to trust, and efforts to strengthen it usually involve parallel efforts to weaken trust and he adds that accountability and cynicism about human behaviour go hand in hand.

### **A neo-liberal paradox**

The implementation of efficient markets is not a trivial undertaking. Jongbloed (2003) defines a set of eight freedom conditions for providers and consumers, which are necessary for the market to be efficient. Providers should have freedom to specify their products, freedom to determine their price, and freedom to use the available resources. New providers should be able to enter the market without undue artificial barriers. Consumers should be free to choose the provider and the product, they should have adequate information about prices and quality, and prices paid should adequately cover the costs. Although in practice – with the usual exception of the U.S. – the state still regulates heavily some of these institutional freedoms, a good example being the limits set to the value of fees, the implementation of quasi-markets was associated with an increase of institutional autonomy.

Ben Jongbloed (2004: 89-90) used a traffic metaphor to make clear differences between the traditional government system of centralised command and control (similar to traffic signals) to coordinate their higher education systems and the adoption of market-based policies (similar to a roundabout). In Ben Jongbloed's metaphor, traffic lights condition heavily drivers' decisions, the same way that government regulation conditions the behaviour of institutions. On the other hand,:

*Drivers in a roundabout are awarded greater discretion (and more immediate forms of accountability!) than when traffic is controlled centrally by signals. This coordination by 'mutual adjustment' supposedly increases the efficiency of the traffic flow. The challenge confronting those experimenting with market-based policies in higher education therefore is to discover the institutional framework of rules and incentives that produces welfare maximising competition among (mainly) publicly subsidised, but autonomous, academic institutions. (Dill et al 2004: 329).*

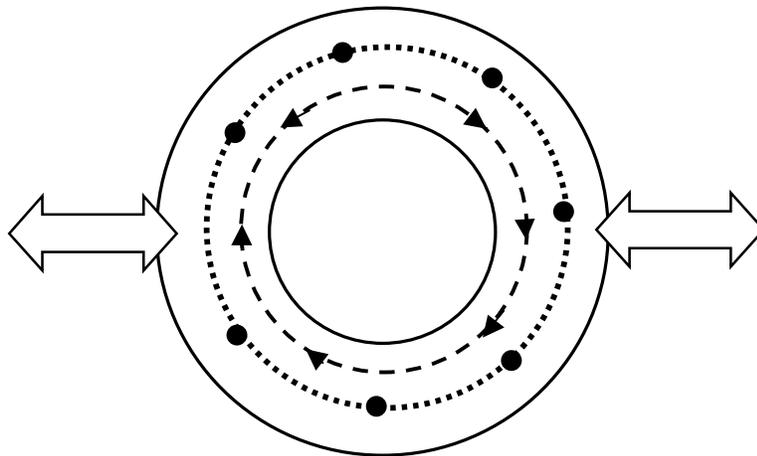


Figure 1 – The roundabout model

The problem is that increased institutional autonomy, combined with market competition, may create regulation difficulties, as autonomous institutions competing in a market may follow strategies aimed at ensuring their own development and survival, to the detriment of the public good or the government's objectives.

Massy (2004: 28) argues "...the way [non-profit] institutions currently respond to markets and seek internal efficiencies, left unchecked, is unlikely to serve the public good", a danger that is exacerbated when competition is excessive, or when the state cuts public subsidies". By using the microeconomic theory of non-profit enterprises, Massy (2004) demonstrates that, under those conditions, non-profit institutions tend to behave like for-profit ones, ignoring the promotion of public good inherent to their missions.

These regulation problems are also related to the classical principal-agent dilemma faced by government agencies acting as monopsonistic buyers (Dill and Soo 2004). The principal-agent model was used to analyse problems of agency relationships, which “are created when one party, the *principal*, enters into a contractual agreement with a second party, the *agent*, and delegates to the latter responsibility for carrying out a function or set of tasks on the principal’s behalf” (Kassim and Menon 2002: 2). The major problem is an asymmetric distribution of information that favours in general the agent (Kiewiet and McCubbins 1991; Holmstrom 1979):

*Two notable problems are adverse selection, where the principal, responsible for recruitment, is unable to observe directly and, therefore, assess the knowledge or skill possessed by the agent and moral hazard, where the agent enjoys superior information, not only about his or her own preferences and abilities, but also about the tasks assigned to him or her, and his or her own actions, which are not usually observable to the principal. (Kassim and Menon 2002: 2)*

The asymmetry of information may lead to the agent’s opportunistic behaviour, namely when the structure of delegation “provides incentives for the agent to behave in ways inimical to the preferences of the principal” (Pollack 1997: 108). The principal-agent dilemma leads to a contradiction of neo-liberal policies. The principal needs to ensure the agents’ perfect compliance, to prevent them from acting “contrary to his or her (i.e. the principal’s) preferences” (Kassim and Menon 2002: 2). Realising that autonomous institutions competing in a market may behave in ways that do not maximise the provision of social benefits and the public good, the government will be tempted to intervene to steer institutional behaviour towards its objectives thus breaking the promise to reduce as much as possible government regulation in favour of market regulation.

Therefore, the government arbitrarily intervenes to change the rules of the game, forcing institutions to adapt their behaviour to government objectives, for instance by using an increasing number of mechanisms such as extensive arrays of performance indicators and measures of academic quality, or using performance based contracts.

As recognised by the OECD:

*Thus the governance of higher education faces some difficult challenges. If higher education is indeed an important strategic lever for governments in seeking to pursue national objectives, can governments achieve those ends without compromising the independence of universities, or their dynamism in catering for new markets? (OECD, 2003)*

Therefore, it is frequent that higher education reforms only replace one form of influence and control by government for another (OECD, *ibid.*). Dominique Orr (2004) suggests that the new relationship between HEIs and the government is better portrayed by the ‘roundabout model’ (Ben Jongbloed 2003) but with an increasing number of [government] traffic lights restricting the allowed routes between higher education

institutions and the government.

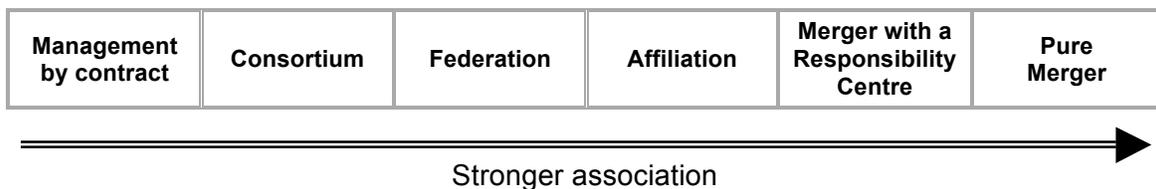
## Part II – Recent European developments

### A movement towards stratification and consolidation

In an increasing number of European countries governments are implementing policies to enhance the international competitiveness of universities and promote their role “in the innovation system, economic development, knowledge-based economy and competitiveness of nation-state” (Tirronen et al, 2007). These developments show that a number of European countries moved from the traditional view that ‘all national universities are of similar quality’ to a new position that promotes a stratified higher education system with a few research universities concentrating significant funding and a number of higher education institutions for provision of mass higher education, with limited research capacity.

The theme of institutional association will be treated in some detail because there is a recent emergence of policies aiming at consolidating already established institutions using different kinds of association of institutions to increase the overall efficiency of the system and the capacity of the new institutions to become competitive in an international or global scale (Tirronen *et al.*, 2007)

Following the taxonomy of Harman (1986) adapted by Lang (2002) the different forms of institutional association can be distributed in a continuum that goes from very weak forms of association such as management contracts to very strong forms such as pure merger.



In the management by contract, government delegates responsibility for running a small and rather specialised institution to a larger institution, in general with a more generalist character.

A consortium is a voluntary association of institutions that preserve their own identity. A consortium is a formal organisation with its own staff and budget, the members of its governing board being appointed by the institutions that form the

consortium. The consortium has several advantages such as offering integrated programmes and services with a more efficient use of resources and each member of the consortium can leave the institution more easily than in the case of a merger.

A federation is not a merger and in general there is a principal or host university:

*In federations, each participating institution remains autonomous. It retains its assets and is fully responsible for its liabilities. Its board of governors remains in place. It retains its authority to make academic appointments, admit students, and offer employment... In federations each institution retains its authority to grant degrees; all but one hold its authority in abeyance in deference to an institution-wide degree. (Lang, 2002: 33).*

Examples of federations are Brown University and Pembroke College, Harvard University and Radcliffe College or the University of London. In a federation, although all institutions retain their legal power to grant degrees, only the host uses that power for the awarding of federation wide degrees. In a federation, the principal or host university in general defines the quality standards, with obvious consequences over staff appointments, which must be mutually acceptable. In public systems the host university “is the sole contact with government, is accountable for all of the institutions within the federation, and is the conduit for whatever public funds may flow...” (Lang, 2002: 34).

An affiliation is neither a consortium – because it involves only two institutions, nor a merger – because each institution maintains its autonomy. An affiliation in general occurs between a full-status degree-granting institution and another institution that has no degree-granting capacity. An example was the affiliation of the Ontario Institute for Studies in education (OISE) with the University of Toronto in Canada, prior to their merger. The University used OISE as its graduate programme in education while OISE gained in status and degree-granting capacity.

The merger represents an extreme case of inter-institutional cooperation. A real merger is:

*...the combination of two or more separate institutions into a single new organisational entity, in which control rests with a single governing body and a single chief executive body, and whereby all assets, liabilities and responsibilities of the former institutions are transferred to the single new institution (Goedegebuure 1992).*

In the case of a merger, at least one of the institutions ceases to exist as legal entity and loses its autonomy, in principle forever. A merger is in principle irreversible and unlike the cases of a consortium or a federation it is very difficult for a merged institution to regain its autonomy.

There are several types of mergers, such as the consolidation of two or more institutions or the simple acquisition of one institution by another. There are also cases where despite the merger the former independent institution retains some level of

autonomy. This is the case where the merged institutions are quite geographically separate.

Denmark is a good example of a to-down merger process. By decision of the Danish government a number of mergers became effective as of 1 January 2007: 13 government research institutions (GRIs) and 12 universities were merged into 3 GRIs and 8 universities; and in January 1, 2008 the 22 Centres for Further Education were merged into 8 Regional University Colleges (Holm-Nielsen, 2008). "The University of Copenhagen, Aarhus University and the Technical University of Denmark are supposed to form the centre of gravity of the new elite institutions" (Vabø, 2007). The Danish Ministry of Science, Technology and Innovation considers:

*The professional synergies gained by the new universities will ensure better utilisation of the country's research facilities, new openings for education and research, and an increase in the universities' international competitiveness. This will ensure that the Danish universities continue to attract highly skilled students and researchers. (<http://en.vtu.dk/education/the-university-mergers>)*

In Norway, the University of Tromsø, the youngest and smallest university, is merging with Tromsø College. While the university will increase the number of study programmes and students and consequently its budget, the College, characterised by low academic competence and research capacity (Kyvik & Marheim Larsen 2006), seeks to improve its standards and status (Vabø, 2007).

In Finland there is a movement to concentrate resources using diverse methods, including the establishment of consortia, federations and mergers "to enhance the competitiveness, status, quality, and research capacity of Finnish universities by various forms of structural development" (Tirronen et al., 2007). The Government decided to implement measures "to create a high quality university system being able to compete internationally at the top level in Finland's specified areas of expertise, while allowing for the development of new emerging research areas and initiatives" (Tirronen et al., 2007). A number of developments illustrating diverse forms of institutional association are currently under way:

- a) The University of Turku and the Turku School of Economics and Business Administration proposed to create a university consortium, gradually leading to the full merger of the two universities.
- b) The University of Kuopio and the University of Joensuu aim at establishing a federation, called University of Eastern Finland. By taking advantage of the complementarity of the strong points of both universities, the federation could develop "internationally competitive research, excellent education and societal impact" (Tirronen et al., 2007).

- c) The Helsinki University of Technology, the Helsinki School of Economics and Business Administration and the University of Art and Design proposed to merge in order to create a new university of technology, economics and design, able to become a world-class university. It was suggested that the new institution will be a foundation under civil law, to be provided with an initial endowment of 700 M€ by combining government funding and endowments from business and industry.

In the Netherlands, the three technical universities in Delft, Eindhoven and Enschede (Twente) are moving from “voluntary cooperation and collaboration to an institutionalised federation with support from the Dutch government that has promised to award the universities € 50 million in additional funds” (Dassen *et al.*, 2007).

In France there are some planned mergers, for instance in Strasbourg, Aix Marseille and Montpellier. And in Portugal law 62/2007 defining the new legal framework for higher education institutions also introduces the possibility of mergers and consortia.

There are also policies aiming at concentrating research resources into a small number of universities that will become competitive in the global scene. In the UK this process has been going for a number of years, using the research assessment exercises to concentrate research funds into a small number of universities. On a statement to the Commons (22 January 2003) the education secretary Charles Clark said:

*So on research we argue that we need still more focus upon world-class research. We state that the funding regime should encourage research collaboration, should promote research concentration and should strengthen the highest world-class research in the country... It means giving extra resources to our very best research departments and world-class universities... (Clark, 2003)*

In Germany, the federal and state governments passed the bill “Excellence Initiative” on 23 June 2005, aiming at making Germany a more attractive research location, more competitive internationally. This initiative is funded with 1.9 billion Euros to be used between 2006 and 2011 and aims at establishing a number of internationally visible and competitive research and training institutions and improving the profile of up to ten selected universities.

In Austria the idea to set up an elite university developed in the early 2000s. The scientists supporting this idea:

*... envisaged the creation of a niche for basic or curiosity driven research, publicly funded, governed and managed by peers... to preserve a Humboldtian model at a moment when universities were reformed in order to be professionally managed and to raise more non-public funds (Hackl, 2007: 6).*

In May 2006 the Austrian Parliament passed a bill creating the Institute of Science and Technology – Austria (ISTA), a legal entity of public law with a mission to do top

basic research and post-graduation of excellence. For Hackl (2007: 8) this represented “a move to hierarchisation of universities which has not been the Austrian tradition”.

Other examples are the merger of the Helsinki School of Economics and Business Administration and the University of Art and Design to create a world-class university, and the consortium created by the three Dutch technical universities (Delft, Eindhoven and Twente) to become more competitive.

### **Changes in institutional governance**

The introduction of market-type regulation mechanisms was accompanied by substantial changes in university governance, either because governments intended to give institutions what were considered more efficient governance and management mechanisms, or because the emergence of New Public Management induced a movement towards governance mechanisms more similar to those of the private sector. In recent years one observes a trend of decreasing collegiality and increasing concentration of power at the top level of the administration and the emergence of university boards with limited membership and strong external participation.

In UK change took place in the period of the 1988-1992 reforms, much earlier than in most European countries. Traditionally:

*British universities (other than Oxford and Cambridge) operate on the familiar bicameral principle. A generalised sketch would be roughly as follows. The Senate [‘Academic Board’ in some post-92 universities and colleges] is, either de jure or de facto, the body with responsibility for decision-making on all academic issues in relation to teaching, learning and assessment and to research; the Council [or Corporation Board or Governing Board] is the supreme decision-making body with responsibility for finance and resources, [non-academic] terms and conditions of employment of staff, etc. Issues such as the ‘mission’ or strategic direction of the institution, although formally the responsibility of the Council, may in practice be largely delegated to, or dictated by, the Senate. The Council contains both external members and academic staff; the Senate, mainly academic staff, normally contains very few external and no strictly non-academic members. Both Senate and Council may include students. (Fulton, 2002: 208 – 209).*

The main changes were the establishment of a small *executive board*, half of whom must be from outside the university with experience in industrial, commercial or employment matters, a reinforcement of the power of the chief executive position and the subordination of the Academic Board to the Board of Governors. The 1997 Dearing report recommended that “as a general rule in the interests of effectiveness, membership of a governing body should not exceed 25” (Dearing report, 1997). While in the new universities (former polytechnics) the board of governors comprises about 12-14 members (OECD, 2003), the great majority of pre-1992 universities have boards with an average of between 30 and 34 members (Shattock, 2001).

In Austria (2002) the main university boards are the University Board or University Council (with 5, 7 or 9 members), the senate (with 12 to 24 members) and the 'rectorate' (rector and up to 4 vice-rectors). For example, the University of Vienna has a 9-member university board, 4 members being appointed by the senate, 4 being appointed by the federal government and 1 co-opted by the other members. The University Board has both strategic and supervision functions and appoints the rector (from a short-list of three names proposed by the senate) and the vice-rectors and dismisses them, approves the development plan, the university organization and drafts the performance agreement to be signed with the federal authorities, supervises the legality of decisions and prepares the performance report. The Senate has mainly academic functions such as dealing with the curricula for degree programs and university courses.

In Denmark the highest university authority is the University Board with a majority of external members, the chairman being one of the external members. The Board manages the general interests of the University and appoints the rector and pro-rector to head the daily management, and both respond to the Board. The Boards of the University of Copenhagen and of the Aalborg University comprise 6 external and 5 internal members. Two of the internal members represent the scientific and academic staff, one represents the technical and administrative staff and two represent students. The Rector, the Pro-rector and the University Director participate in board meetings as observers. The University Board has signed a performance contract with the Ministry, which formulates the University's objectives and intended progress for a fixed period of time. The Technical University of Denmark has a 15-member Board of Governors with 9 external members and 6 internal members (2 representing the scientific and academic staff, 2 representing the technical and administrative staff and 2 representing students). The board approves the University's strategy as well as budget and action plans, enters into Development Contracts with the Minister for Science, Technology and Innovation, appoints the Rector and makes decisions on new building projects, etc. The rector is responsible for the daily running and answers to the Board.

In Sweden the University Board is the main governing body and has a majority of external members representing community and business interests, all of them appointed by the Minister who also appoints the chairman. The internal members are the vice-chancellor and representatives of staff and students. At Umeå University and at Gothenburg University the Board has 8 external members, the vice-chancellor, 3 representatives of the academic staff and 3 representatives of students. Representatives of employees, i.e. three union representatives, have the right to attend and express views at board's meetings. The board has "supervision over all the university's affairs, and is responsible that its duties are fulfilled".

In Norway there is also a small University Board with 11 members but there are two possibilities. In cases such as the University of Trondheim, the University of Oslo or the University of Tromsø, the Board is composed of 3 representatives of tenured academic and scientific staff, one representative of contracted academic and scientific staff, one representative of technical and administrative staff, 2 representatives of students and four external members, including the chairman. The Board is responsible for university activities and for ensuring that the university operates within the framework and guidelines stipulated by the Ministry of Education and Research, and the Storting. The Board decides strategies, objectives and expected results from the university. It also presents the accounts, financial statements and budget proposals and appoints the Rector that answers to the Board. The University of Bergen opted for the alternative version of the law. The rector is elected (not appointed by the Board) and presides over the Board that includes 10 additional members, comprising 3 representatives of tenured academic and scientific staff, one representative of contracted academic and scientific staff, one representative of technical and administrative staff, 2 representatives of students and four external members.

In Finland, a new university act will come into operation by 1 January 2010 introducing reforms that follow the pattern of other Nordic countries:

*“In future, universities will be presided over by a board with up to 14 members, half of whom will be appointed from outside the university. The new board's role will be much closer to that of a corporate board of directors, and its chair will be one of the external appointees. The rector will be appointed by the new board and, although it is likely the incumbent will have to hold a PhD, the appointee need not be a professor of the university, a requirement at present. The rector will become the university's CEO.” (Dobson, 2008)*

In France a management board will be responsible for defining the institutional policies for research and education. However, the new board will have a reduced membership (50% of traditional boards) and increased external participation while the scientific council will have only an advisory role.

In Portugal, the recent Parliament Act No. 62/2007, of 10 September, defined the new legal framework of higher education institutions. The new act creates a university board – the General Council – with 15 to 35 members, depending upon the size of each institution and the number of schools and research units. At least half of the members are elected from among teachers and researchers of the institution and at least 15% are elected among students. These elected members will co-opt external members up to at least 30% of the total membership of the Council, one of the external members being elected chairman. The Council elects the Rector and approves strategic and action plans, budget proposals, annual consolidated accounts, student fees, authorises the purchase or sale of the institution's assets and its credit operations, etc.

Another important element is the legal status of public universities:

*“In broad terms, institutions can be considered either a State agency or as a legal independent person. In the former case, institutions are treated in a similar way to other State agencies such as the National Statistics Office, abiding by public service regulations and being financed by the public budget. In some instances, they may be granted some specific status as a State agency... Granting independent legal status (ILS) is one means of giving greater autonomy to institutions. Having ILS means an institution is legally responsible for its functioning. One of its forms is that of a foundation<sup>1</sup>.” (OECD, 2008: 82).*

The World Bank Report (2008) classifies universities into four legal status models with different governance models: “State Control”, “Semi-Autonomous”, “Semi-Independent” and “Independent”. Independent universities as is the case in the UK and Australia, are:

*A statutory body, charity or non-profit corporation with no government participation and control linked to national strategies and related only to public funding. (World Bank, 2008: 9)*

There is a recent trend to grant independent legal status to public universities. In Austria, the new 2002 act gave universities “independent legal status”, and although they remain in the domain of public law they are no longer state agencies without legal capacity (Pechar, 2005; Sporn, 2002). Universities are now “free to decide on employment conditions, academic programmes, resource allocation without government approval (Sporn, 2002), and to borrow funds” while “all academic personnel are to be employed by the university on the basis of private contracts” (Pechar, 2005: 10).

Another development is the establishment of universities as foundations under private law. The Chalmers Technical University was the first well-known initiative in this area. In 1994 Chalmers became a semi-private foundation-owned university founded by the Swedish State with an initial endowment capital of € 170 million. The university is run as a limited company. In the same year the University College of Jönköping also became a private foundation.

This model is starting to spread across Europe. In 1998, an amendment of the German Federal Framework Act for Higher Education, allowed the sixteen Länder (the German states) to establish a modified legal status for their universities (Palandt 2005: 182). Lower Saxony was the first “land” to take advantage of this possibility and its parliament passed the Lower Saxony University Reform Act, of 24 June 2002, allowing universities to become public foundations as legally self-administered public bodies (Palandt, *ibid*). The decision of the university to become a foundation is taken on a

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<sup>1</sup> Independent legal entities in the education field can have many forms. They can be incorporated (*i.e.* they are a company) or unincorporated. In either case they can be for-profit or not-for-profit. For example, all higher education institutions in the United Kingdom are legally independent bodies with a charitable status. Some are incorporated but not-for-profit. But a charity can trade and earn profit for its charitable aims and it can set up a separate non-charitable company for that purpose and be liable for tax on its profits. (OECD, 2008: 82).

voluntary basis.

Five out of the twenty universities in Lower Saxony – the University of Göttingen, the Veterinary University of Hannover, the University of Hildesheim, the University of Lüneburg and Fachhochschule (university of applied sciences) Osnabrück. – were transformed into foundations with effect from 1 January 2003. The new legal status grants institutions substantial autonomy, being expected this will allow for more effective and economic resource management, while there is hope that increased private and social funding will be attracted. One interesting aspect is the new capacity of foundation universities to hire staff without state intervention, although keeping their status as civil servants and leaving public wage scales untouched (*ibid*: 187). The new institutions will continue to receive financial support from the state, regulated by a contract negotiated between each institution and the state. The contract sets development and achievement targets that are the basis for calculating the level of financial support and the basis for future financial agreements. However, as the state of Lower Saxony does not have enough money to create an initial endowment, “the Reform Act authorizes the government of Lower Saxony to transfer the property holdings of universities to them to form the basic capital of their foundations” (Palandt, 2003: 184), although it cannot be used as security for bank credit.

In Finland it was already referred there is an intention to create a “world-class” university in Helsinki by merger of existing institutions into a new institution that will be a foundation.

In Portugal, the new legal framework for higher education institutions allows public universities to become “public foundations under private law” and three universities decided to use this possibility – the University of Porto, the University of Aveiro and the ISCTE (Instituto Superior de Ciências do Trabalho e da Empresa). Apparently negotiations were already successfully concluded with the two first institutions.

The advantage of foundations is allowing its leaders a maximum of freedom to run the institution, with a minimum of external interference. However, transforming a public university into a foundation presents difficulties in restructuring internal management and, with the exception of Germany, staff may resist moving from a public service status to a foundation employee. It is also uncertain how future governments will be favourable to the foundation model<sup>2</sup>.

## Changes in Funding

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<sup>2</sup> This has apparently been the case at Chalmers where the new government was against the idea of foundations and did not transfer the property holdings to Chalmers.

The concept of a neo-liberal paradox was used to designate a contradiction between a neo-liberal rhetoric that favours market regulation and reduction of state intervention and the arbitrary government intrusion to change the rules of the game in order to force institutions to follow strategies that comply with government's objectives. This is consistent with the idea that an effective delegation of 'public-interest decision-making' authority to institutions requires "an affirmative desire to interpret and serve the public good, the will to hold institutional self-interest at bay, and the financial strength to balance intrinsic values with market forces" (Massy 2004: 33). However, the unchecked behaviour of institutions, especially under conditions of strong competition and financial stringency, may not correspond to the best public interest, which makes a strong case for government intervention (*ibid.*).

This explains that despite the rhetoric of increasing institutional autonomy, governments frequently replace one form of control with another. In general, increasing autonomy is associated with a switch from itemised to lump-sum or block grant budgets and targeted funding, while there is increasing popularity of performance-based contracts:

*Performance contracts – governments enter into binding agreements with institutions to reward them with resources linked to the achievement of mutually determined performance-based objectives. (Salmi and Hauptman, 2006: 17).*

This is also recognised by the OECD:

*There has also been a move towards linking funding to medium-term objectives negotiated between government and universities. Such "performance contracting", pioneered by France in 1988, followed by Finland and Switzerland in the late 1990s, and Austria in 2002. (OECD, 2003)*

The importance of performance-based contracts lies in allowing the government to have much more detailed control over the outputs of higher education institutions. Finland is a very good example of this system: each university negotiates with the government three year financing contracts where universities agree to achieve pre-set targets and objectives in exchange for defined levels of funding. The target results and the operational expenditure are determined for a three-year period and the agreement is revised annually in a supplementary protocol appended to the following year's budget. The university must produce an annual report on the achievement of the objectives (Ministry of Education of Finland, 2001).

In Denmark there are also performance-based contracts that are called "development contracts" to express the idea that there is a long-term strategic perspective of the activity. Austria has also recently introduced a contractual funding system. Contracts were also implemented in Switzerland since the mid 1990s while in France they existed since 1989:

*France since 1989 has devoted one third to half of the recurrent budget to 4-year*

*performance contracts. Payments are made when the contracts are signed, with a post- evaluation to assess the degree and effectiveness of implementation. (Salmi and Hauptman, 2006: 18).*

In Spain, autonomous regions, not the central government, provide funding for higher education. The different autonomous regions are increasingly using “performance-based contracts” as allocation mechanism (contrato-programa de financiación global), examples being Catalonia and Canary Islands. However, in some cases contracts are too detailed and interfere strongly with the autonomy of universities.

Germany offers a fascinating and interesting example. The reformulated Framework Law for Higher Education authorised in 1998 introduced three basic principles in higher education: autonomy, diversity and competition and has forced the sixteen Länder to change their own regional education laws in line with these principles (Orr *et al.*, 2007). Different states are using performance-based funding to induce inter-institutional competition and as each state has set different limits to the percentage of the budget to be allocated through this mechanism, Germany offers a set of diverse array of models that can be analysed from a comparative perspective:

*The scope of performance-based funding may be increased by the implementation of target agreements. These instruments are being applied in nearly all the German at state level and increasingly at institutional level as well. Practice shows that these agreements are not being introduced as alternatives to indicator-based systems, but as complementary mechanisms with a different steering character (e.g. longer validity period, consideration of quality and context). In states such as Baden-Württemberg, Berlin and North-Rhine Westphalia, they are used as secondary steering instruments, whereas in Bremen and Hamburg, they are in fact the primary methods of steering and funding allocation. (Orr *et al.*, 2007: 21)*

In Portugal the new Framework Law for Higher Education Institutions (Law 62/2007) that allows universities to become “public foundations under private law” also establishes that foundations will be financed through performance-based contracts.

## **Changes in Quality Assurance Systems**

In Europe the development of quality assurance activities started much later than in the U.S. The emergence of the “Evaluative State” (Neave 1988: 7) was observed in the late 1980s, with increasing public relevance given to quality. A number of factors contributed to this emergence, such as massification of higher education, creating very heterogeneous systems (Trow 1996); the increasing role of the private sector in replacing the state as main employer of graduates (Neave 1996) and the increasing use of markets as instruments of public policy (Dill *et al* 2004). Instead of equality of provision to ensure fair competition of graduates for public positions, institutions had to adapt to a more heterogeneous and less regulated private labour market while market regulation made urgent a higher degree of autonomy to adjust to market competition.

The rise of the Evaluative state corresponded to an “alternative to regulation by bureaucratic fiat” (Neave 1988: 11), by looking for more flexible, less heavy and faster guidance mechanisms that would allow for increased capacity for institutional adaptation to change and shorter “administrative time” (Neave 1998: 273). Instead of the traditional *a priori* authorization, the state awarded institutions more autonomy while creating a *posteriori* control mechanisms via quality assessment. However, the development of quality assurance in Europe was fast. Schwarz and Westerheijden (2004) report that in the early 1990s less than 50% of the European countries had initiated quality assessment activities at supra-institutional level, while in 2003 all countries except Greece had entered into some form of supra-institutional assessment.

The European quality assurance systems shared important procedural elements – internal self-evaluation, visit by an external expert review panel, external evaluation and public reporting (Thune 2002). However, there were important differences in political discourses (Neave 1998, 2004) that ranged from a mainly European and political discourse, with universities assumed as a public service (e.g. France and Sweden) to a mainly economic discourse, market-based and inspired in the U.S. (e.g. UK and the Netherlands), the role of the state being regarded as excessive (Neave 2004).

There were also differences in the ownership of the system and in the consequences of quality assessment – with or without direct consequences to funding. In some cases, the high level of trust between government and institutions allowed for the ownership of the quality agencies to be entrusted to organisations linked to the universities (the Vlaamse Interuniversitaire Raad – VLIR – in Flanders, the Vereniging van Universiteiten – VSNU – in the Netherlands, and the Fundação das Universidades Portuguesas – FUP – in Portugal). These agencies were similar to the U.S. accrediting organisations, in that they also had a guild character.

### ***Loss of trust, new public management and changes in evaluation systems***

Recent literature shows a decline of trust in public institutions in general, and in higher education institutions in particular, as well as in professionals. Comparing state approval versus accreditation schemes, in the years 1998 and 2003, reveals an overwhelming movement from state approval towards accreditation schemes (Schwarz and Westerheijden 2004). And all recently implemented quality systems are based on accreditation rather than on quality assessment (e.g. Germany, Austria, Norway and Portugal). This might reflect an increased lack of trust in higher education institutions to satisfy the government and society about their capacity to ensure adequate standards of quality.

In the Netherlands, a meta-evaluation system run by the Inspectorate for Higher Education was supposed to ensure that the assessment procedures were properly run. In Portugal, a commission was set up to coordinate the quality assessment process and to issue recommendations for the rationalisation and improvement of the higher education system; i.e. to meta-evaluate the system. However, this has not been sufficient to protect quality assurance agencies. In Flanders "... policy makers, employers and journalists questioned the vagueness of the visitation reports and the lack of a clear overall conclusion" (Van Damme 2004: 144) and in Portugal "...the Minister has publicly complained ...that the conclusions of the reports of quality evaluation agencies were quite obscure..." (Amaral and Rosa 2004: 415-416). These three national quality assurance agencies were extinguished by government and replaced with "independent" accrediting agencies (Amaral 2007).

### ***Supra-national developments***

The early 1990s saw a development of quality assessment initiatives at the level of the European Union. Under the Dutch presidency, the Ministers of Education and the Council initiated steps to create a European quality assessment system. The conclusions of the 25 November 1991 meeting of the Ministers of Education with the Council proposed "arrangements for quality assessment in higher education on a national level could be examined at Community level, with a view to reinforcing national quality assessment systems..." (Council 1991).

The Ministers and the Council further proposed the Commission should undertake steps to strengthen the evaluation of higher education in Europe, including a comparative study of the evaluation methods used in Member States, the development of a limited number of co-operative pilot projects in this area and the creation of mechanisms for strengthening European co-operation, taking into account the concrete evaluation experience that had already been established. The comparative study was published in October 1993 and a European Pilot Project on quality evaluation was carried out in 1995, including 17 countries and 46 institutions.

On 24 September 1998 the Council agreed on recommending that Member States establish transparent quality evaluation systems and that the Commission promotes cooperation amongst the authorities responsible for quality in higher education and promotes networking (Council 1998). This resulted in the establishment of the European Association for Quality Assurance in Higher Education (ENQA).

The Bologna Declaration (1999) contributed to encourage European cooperation in quality assurance of higher education with a view to developing comparable criteria and methodologies. Schwartz and Westerheijden (2004: 36) refer to the Bologna process as

an important “driver for change with regard to quality in steering mechanisms”. The EU discourse supporting a European system of quality assurance is mainly economic and market-based, a neo-liberal model that occasionally becomes visible in European policies that emphasise the importance of the efficiency of the systems.

Although none of the successive communiqués from the biannual meetings of the European Ministers of Education (Prague, Berlin, Bergen, London) has given primacy to accreditation, the fact is that accreditation was pushed forward against the opposition of a large number of European universities, as documented by Amaral and Magalhães (2004). In 2004 the Commission presented a proposal for a recommendation of the Council and of the European Parliament: “Institutions must set up rigorous internal quality management and develop an accreditation strategy”. The Commission suggested the implementation of multiple quality assurance and accreditation agencies, public and private, national and international, and a European Register of accredited agencies. Higher education institutions should be allowed by their governments to choose any agency listed in the European Register. This is consistent with a stratified European Area of Higher Education, as some agencies will address excellence at an international level, others will be more appropriate to regional or local institutions, some will accredit research universities, while others will specialise in teaching-only institutions.

The European Ministers of Education adopted, in 2005, the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG), drafted by the ENQA (2005), in co-operation and consultation with its member agencies and the other members of the “E4 Group” – ENQA, European University Association (EUA), European Association of Institutions in Higher Education (EURASHE) and European Students’ Union (ESU). In 2007 the European Ministers of Education established the European Quality Assurance Register for Higher Education (EQAR) based on a proposal drafted by the E4 (ENQA 2007):

*The register will be voluntary, self-financing, independent and transparent. Applications for inclusion on the register should be evaluated on the basis of substantial compliance with the ESG, evidenced through an independent review process endorsed by national authorities, where this endorsement is required by those authorities. (European Ministers of Education 2007)*

The Register was set up on 4 March 2008 as the first legal entity to emerge from the Bologna Process. The register provides information on quality assurance agencies that are in substantial compliance with the common European framework. One of the criteria set in the European Standards and Guidelines for accredited agencies is their independence “to the extent both that they have autonomous responsibility for their operations and that the conclusions and recommendations made in their reports cannot be influenced by third parties such as higher education institutions, ministries or other stakeholders.” (ENQA 2005: 24) This would exclude the former quality agencies in

Flanders, Portugal and the Netherlands, as recognised in the ENQA's review report of the Portuguese Quality Assurance system (ENQA 2006) – they were recently replaced with “independent” accrediting agencies complying with the European standards and guidelines – as well as the U.S. Regional Accrediting Agencies.

### **Supranational Influences<sup>3</sup>**

Higher education policies are influenced by supranational organisations such as the OECD and the World Bank. In Europe the World Bank does not seem to have much influence at present, but there is an important role played by the European Union and the European Commission.

The legal basis for Community intervention in higher education tends to be weak, as Education has always been considered an area of national sensitivity (Gornitzka, 2009). Yet, the European Community is increasing its role in education, and particularly in higher education. The main vehicles for re-defining the Community's role in this domain are the implementation of the Bologna process and the Lisbon strategy.

The creeping competence of the Community was substantially bolstered by the way European legal and political documents are drafted. Careful drafting, allied to delicately weighed wording, are designed to pass lightly over and around the incapacity of member states to agree on essential goals and priorities (Dehousse 2005). The use of ‘weasel words’, which seek to deprive a statement of its force or to turn a direct commitment aside, allows not only for diverse interpretations of the treaties, it enhances and reinforces the supranational role of the European Court of Justice, a development that certain member states view as increasingly undermining the sovereignty of the nation state.

The Bologna Declaration was a heaven-sent opportunity for the Community to expand its influence. The Commission was quick to assume a central role in the Bologna process, a role that acquired a particular consistency by associating Bologna with the Lisbon strategy that is dominated by an economic rationale. And with the canons of Neo-Liberalism, the Commission occupies the commanding heights.

Initially the Bologna process was an initiative of the European Education ministers with the purpose of acquiring leverage for domestic and national reforms. No reference was made to an economic rationale. Nor, when the Bologna Declaration was signed, did the Commission figure as one of the signatories. However, it did not take long before the ‘competence’ of the Commission acquired visibility. The Commission offered to provide

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<sup>3</sup> This chapter is based on two documents by Neave and Amaral: “The OECD and its Influence in Higher Education: a Critical Revision” and “On Bologna, Weasels and Creeping Competence” that will be available as book chapters in 2009.

technical and financial support by paying for both the Bologna meeting and its preparation, though it was not permitted to set its hand to the document. Such largesse brought its own reward: the Commission soon acquired the status of full member of the Bologna process, with the same role and privileges as member states (Martens and Wolf, 2009). Thus, the Commission was able to 'buy in', to become an important partner in the Bologna process for only a minor outlay of resources.

The second heaven-sent opportunity came in 2000 with the Council's approval of the Lisbon strategy, aiming at transforming Europe into the world's most competitive and dynamic knowledge-based economy, capable of sustained economic growth, more and better jobs and greater social cohesion. Eric Froment, former President of the European University Association, pointed out some implications: "The current tendency at European level is to look at the Bologna process as an element of the Lisbon strategy. This is the result of the European Commission actions, and has important consequences ..." (Froment 2007: 12).

By claiming that universities were an indispensable component in the new knowledge society and a fundamental tool of the Lisbon strategy, the Commission insinuated itself into a position of legitimacy to intervene in the areas of research, innovation and higher education, the three sides of that self-same triangle the Commission proposed to bring together in the shape of that new supranational institution, the European Institute of Technology (EIT). The Commission not only leveraged the economic rationale into the policy agenda of higher education by linking the Bologna objectives "directly to economic gains expected from a common education area" (Martens and Wolf, 2009), it also unveiled a model (EIT) supposed to foster innovation in the management and governance of university and research and to point both in the direction of practices in the private sector. The new model exalts a university that "is dynamic and adaptive to consumers and that gives priority to innovation, entrepreneurship and market orientation" (Olsen and Maassen 2007: 4).

The 'neo-liberal' vision of how the Bologna process ought to be implemented also clamoured loudly for institutions to be granted more autonomy. The Commission's 'very model of a modern university' stood in curious contrast with the orthodoxies of neo-liberal politicians, who "consider(ed) that government intervention and regulation were excessive, and the mother of all the sins of the welfare state (inefficiency, wastage of money, unfair sharing of resources...), the 'market' being the solution of all these problems" (Amaral and Magalhães 2001: 11). For Martens and Dieter Wolf (2009) "by involving the Commission in the Bologna process while trying to control it at the same time, governments paid the double price of making education an economic issue and spreading new modes of governance which weakened their own importance".

Martens *et al* employed an institutionalist approach to the analysis of the governance within international organisations. They distinguished between three dimensions in governance: governance by coordination, governance by shaping opinion, and governance by instruments. The OECD, they suggested, has *not* been able to develop a strong instrumentality of governance. It lacks the financial clout of the IMF or the World Bank. Nor, unlike the European Union, does it have a legislative capacity to force decisions on its member countries to implement policies. (Martens *et al*, 2004: 159)

For Martens *et al*, the OECD has acquired a strong capacity for coordination by dint of organizing procedures and handling the treatment of their outcome. This, in turn, shapes the initiatives and options that may be entertained in a particular field of policy. (Martens, *et al.*, 2004: 2). For them, governance by opinion forming is a clear expression of "...the capacity of an international organization to initiate and influence national discourses" (Martens *et al*, 2004: 2) and complements the coordination capacity. Thus, opinion forming moves on to become "thematic governance", the identifying feature of which involves the manufacture and the content of such discourses. (Martens *et al*, 2004: 3).

OECD's influence then, flows from laying down a set of distinctive norms and practices, grounded in what is desirable and appropriate for liberal, market-friendly, economic policies (Henderson, 1993). It sets out the role institutions should assume in developing and handing on those norms that cause actors in a given community to switch to the logic of appropriateness (March and Olsen, 1989). And appropriateness exists largely in the short-term.

Marcussen's analysis provides a neat summary:

*"...the OECD can be considered as an ideational arbitrator that helps national civil servants meeting each other in supportive surroundings, thereby teaching them to develop their personal and technical skills, and even sometimes develop their personality and feelings of belonging. Such learning processes can take various forms – such as socialization, imitation and coercion – and the concrete meeting can be characterized by social logics as different as bargaining on the one extreme and deliberations on the other."* (Marcussen, 2001: 3)

It is curious the OECD has been using both the mechanisms and procedures involved in creating 'soft law', though it did not use this specific term (OECD, 2002). These include sophisticated means of knowledge generation, production and sharing, the identification by means of cross national rankings of 'leaders' and 'laggards' amongst those systems taking OECD norms and recommended practices on board (March and Olsen, 1998: 961). Peer pressures to conform and reform are at the heart of the OECD's effectiveness (OECD, 2004: 4).

When comparing the forms of governance of the OECD and the EU in the field of education it is possible to conclude that the two organisations are using similar forms of

governance today (Martens *et al.*, 2004). For both organisations working with ‘opinion formation’ and with ‘coordination’ seems to be the strongest forms of exercising influence. As education has always been a matter of national sensitivity, reserved by the treaties of the Union to come under the sole responsibility of national governments, the EU cannot use legal instruments and needs to resort to soft law mechanisms (the Open Method of Coordination). Perhaps, the Bologna process might become a good useful to analyse how far soft law mechanisms can be effective.

The recent OECD publication (2008), *Tertiary Education for the Knowledge Society* is also an essential summary of the views entertained by the OECD on such matters as governance, quality, equity, research and innovation, the development of careers in academia, relations with the market and, last but not least, the place of internationalization in education policy.

## **Conclusion**

Beyond Europe, similar policy developments at system level appear to be sprouting vigorously across the planet. (Samoff and Carol, 2006; Tilak, 2006: 235 – 254) Impatience with academia’s long-established norms and values, the crying up of higher education’s economic mission and purpose, the rise at institutional level of “New Managerialism” (Kogan, 2004), the “professionalization” of university management, the weight and influence of external stakeholders (Enders and Fulton, 2002: 11-38), the diversification of funding, the imposition of evaluation by performance criteria, inextricably tied in with economic productivity, the promotion of ‘relevance’ in both teaching and research, all represent the central elements of higher education in a globalised world.

The implementation of markets as instruments of public policy has been accompanied by a loud cry in favour of increased institutional autonomy, made necessary to allow institutions to compete in the higher education market. However, governments quickly realised that competing autonomous institutions were more difficult to steer and have taken with one hand what they had given with the other. Frequently, higher education reform has often meant replacing one form of government influence and control with another (OECD, 2003). Despite the new governmental rhetoric of increased autonomy these developments remind us of the words of Mahony (1994: 125) “The ‘new’ autonomy is then a paradox: it is the autonomy to be free to conform”.

It remains to be seen if the present global crisis of the financial systems and the loss of credibility of pure market regulation will result in a reversal of the recent changes of the relationship between universities and government.

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