



**Hochschulforschung** | Higher Education Research

HOFO Working Paper Series: IFF\_hofo.05.001

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# **University Autonomy in Austria**



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## **Abstract**

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## **Key Words**

Academic freedom; institutional autonomy; governance.

## **Context Information**

Presentation for the Second Round Table Meeting of the “ASEAN-EU University Network Programme (AUNP)” in Barcelona, Spain, on the Topic “Autonomy in Higher Education” (January 13-15, 2005).

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Pechar, Hans (2005) University Autonomy in Austria.

HOFO Working Paper Series 05.001

Vienna, IFF (Faculty for Interdisciplinary Studies)

[http://www.iff.ac.at/hofw/WP/IFF\\_hofw.05.001\\_pechar\\_autonomy.pdf](http://www.iff.ac.at/hofw/WP/IFF_hofw.05.001_pechar_autonomy.pdf)

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## University Autonomy in Austria

### Abstract:

During the last five decades, patterns of university governance and corresponding concepts of autonomy have fundamentally changed several times in Austria. This paper starts with the Humboldtian tradition which conceptualized the university as a contradictory entity of a state agency and a self-governing community of scholars. Starting with the 1960s, the government displayed a more extensive policy interest in higher education and assumed stronger powers to regulate universities. During the 1990s, Austria adopted the concept of institutional autonomy for universities from the Anglo-Saxon world. This policy shift resulted in two reforms of governance in higher education which finally made universities to full legal entities.

### 1. The Humboldtian tradition of university governance

For about 150 years, Austrian higher education was shaped by the Humboldtian tradition. In our context, the following aspects of that tradition are of main interest:

(1) Governance at universities was characterised by a dualism between political and academic authority:

- with respect to all aspects of public interest, the university was a state agency and subject to centralised decision making by legislation and state bureaucracy;
- all issues regarding teaching and research were in the hands of the academic oligarchy - each chair holder being in charge of his/her own specialised field of research.

This dualism goes back to the mid 19th century, when the Humboldtian system was established in Austria (Cohen 1996). Academics usually did not strive for corporate autonomy of the university; rather the opposite was the case in that it was a relief not to be in charge of trivial matters. The educated elite regarded it as a cultural obligation of the enlightened secular state (*Kulturstaat*) to serve as a benevolent patron for academic life. The state was seen mainly as a power to protect the integrity and autonomy of universities, not as a potential threat to their independence.

This dualism was also reflected in the internal organisation of the university, in a parallel leadership structure. There was an academic hierarchy (rector, dean, head of institute) on the one hand, and a hierarchy of administrative functions on the other. The head of university administration (*Universitätsdirektor*) was neither appointed by the rector nor elected by the collegial bodies; the head was appointed by the Minister and in most matters responsible to the Minister.

In the traditional chair system (*Ordinarienuniversität*), self-governance was restricted to the small group of full professors. The situation of junior faculty was then characterised by personal dependency on the chair holders. The university as a whole was an assembly of many small 'principalities', each of them managed and controlled by a full professor.

(2) The chair was the most important organizational unit. Research and teaching at universities was centred around individual professorial chairs, who had a high degree of authority in their field of expertise, but without any substantial interference from university bodies or government. Chair holders were heads of academic units and in this function they

were superiors of non-academic staff and of junior academics. All other academic staff were subordinated to the chair and was to support him/her.

(3) At the institutional level, the university as an organisation was weak. Together, chair-holding professors and the state bureaucracy dealt directly with the most important issues. The corporative structures at the university and faculty levels merely had a symbolic function. It was the self-image of the university to be a self-governing community of scholars held together by common values. The rector was regarded as *primus inter pares* to represent the university, not to govern, or let alone manage it.

(4) As long as the university was a state agency, the government was the employer of academic and non-academic staff. Only temporary staff were employed on the basis of private contracts, usually within the scope of 'third party projects'. Academics were civil servants with lifelong tenure. This status was supposed to secure academic freedom against pressure from outside, in particular from the Roman Catholic Church which up to the 20th century had a strained relationship with the modern concept of autonomous science. The majority of non-academic staff also had permanent positions, many of them being civil servants.

In general, the traditional view of this employment pattern emphasised the advantage of a 'principal' being distant from the sphere of academic work; distant in the sense of space, but also with respect to professional competence. Working conditions of academics reflect the dualistic nature of the traditional university as a state agency on the one hand, and a sphere of academic autonomy on the other. The status of the civil service not only guaranteed lifelong job security for academics, but also offered an opportunity for academic self-governance. Only formal aspects of personnel management which could be executed by bureaucratic procedures were handled by the ministry, which was the 'principal' in the legal sense. All aspects of personnel management related to academic work were delegated to collegial decision making in self-governing bodies of the university.

## **2. UOG 1975: Increasing government regulation**

During the 1960s, the traditional Humboldtian pattern was undermined by a new policy paradigm which regarded higher education no longer as an end in itself but as a means to economic growth. This policy was based on the human capital theory which was popularized and disseminated by the OECD. In order to serve the economy policy makers tried to modernise the higher education system. In the 1960s, most economists agreed that the demand for graduates by far exceeded the actual output of universities and for that reason policy makers opened access to underrepresented groups of students. The government set the course for educational expansion and modified the traditional chair system. During the 1970s the annual growth rate of enrolments was about 10%. The growth of enrolments was followed by a growth of academics, mainly junior faculty. As a consequence, junior faculty assumed new teaching functions. Previously, junior faculty were limited to serve as mere assistants to full professors, but during the course of expansion of higher education they increasingly assumed an independent role. Accordingly, they demanded some kind of representation in collegial bodies. Thus the traditional pattern of governance and internal organisation was challenged by a power struggle between the full professors and "middle ranks" (*Mittelbau*) of academia.

Since it was now regarded as an important goal to raise the qualifications of the workforce, the whole education system, including higher education, caught the attention of policy makers much more than previously. The government now regarded the training of graduates as too

important as to leave it exclusively to universities and got more actively involved in the regulation of study courses. During that period the mutual trust and respect between academics and policy makers started to erode. A majority of the academic oligarchy opposed the higher education reforms, so the government had to enforce it by legislation and other means of regulation. A fundamental reform of governance and the internal organisation of universities was passed in 1975 (UOG 1975). The new law increased the status of junior faculty and gave some voice to students. And it was a first step to modernize the traditional chair system by introducing larger organisational units (institutes). The UOG 1975 was extremely divisive and it was immediately – but without success – sued by a group of professors at the constitutional court.

During the 1980s, universities slowly got used to the new model of decision making. There was some dissent but the majority of the professors accepted the new role of junior academics. In some ways, the early 1980s was a time of consolidation in higher education policy. In other ways, however, it was also a time of change, though unspectacular. Student numbers continued to grow and exceeded the levels which had been forecast only a few years earlier. However, due to fiscal consolidation, public expenditure on universities could not keep pace with the growth of student numbers.

During the late 1980s, a dramatic shift of paradigms in higher education policy took place. Up to that time, the key actors in the political and administrative system supported the tradition of stringent state regulation of all kinds of education institutions, universities included. During the late 1980s, trust in the traditional patterns of maintenance and funding gradually eroded. This was caused by a variety of factors, the two most important being the crisis of central steering and the crisis of public finance.

- The crisis of central steering. The expansion of higher education significantly increased the complexity of the system. This undermined the Austrian tradition of central steering of the education system, which was based on the assumption that the key actors of the system share some common visions about the ‘one best system’ (or at least that they share the belief that one such best system does exist); and that the most powerful actors at the top of the system have the necessary means (e.g., sufficient information and influence to motivate actors at lower levels) to implement the ‘best solution’. First doubts about that approach appeared in Austria during the 1970s. During the 1980s, the legitimacy of the central steering approach was gradually undermined. The dominant view was that universities were bound by a rigid state bureaucracy and hence could not develop their creativity. At the end of the 1980s, even some policy makers and top civil servants shared those views. As soon as the key actors stopped believing in them, the ‘etatist’ traditions in educational steering could not be perpetuated.
- The crisis of public finance. Fiscal consolidation, which became a priority of government in the late 1980s, had severe consequences for higher education policy. As long as politicians and senior civil servants had sufficient funds to distribute, they were quite eager to influence in some detail how that money was to be spent. When fiscal stringency brought an end to those ‘golden years’, political and administrative decision makers increasingly had to refuse applications for additional funding or – even more embarrassing – had to decide upon cuts. Life became more difficult for all stakeholders and relations between the representatives of the government and the higher education community deteriorated. The former had no interest in being engaged in the ugly details of executing cuts and became quite sympathetic to the arguments for increasing the autonomy of higher education institutions.

### 3. UOG 1993: A first step to institutional autonomy

In October 1991, the ministry presented guidelines for a new organisational act (Green Paper, BMWF 1991). Its most important purpose was to complement and balance the traditional collegial decision-making structure (academic senate chaired by the rector) with a parallel managerial structure. At the institutional level it was proposed that this would be the *Präsidium*, an executive body chaired by a president who would be appointed by the Minister. This strengthening of decision making would enable the university to receive and handle lump sum budgets. It was proposed to exempt public expenditures for universities from the normal fiscal regulations for the public sector (*Kameralistik*) and to leave them to the *Präsidium* to spend the money according to its own priorities. Each university would have an external board (*Kuratorium*) which would not be a governing body, but rather have advisory functions. There would be two types of academic personnel: the traditional category of civil servants would be supplemented by academics who would be employed by the university on the basis of private contracts.

The Green Paper was met with uncompromising rejection by all groups within the university community. There was hardly any support from academics which was strange because only a few months before the Green Paper was published, an academic association which was quite influential within the professoriate made a similar proposal (Österreichische Forschungsgemeinschaft 1991). There were two main sources of resistance to the new managerial policy: one was left wing, the other had rather conservative implications. Students and a majority of junior faculty opposed strong academic leadership on the grounds that it implied an authoritarian backlash of the democratic reforms of the 1970s. Most professors and a minority of junior faculty rejected the new proposals on the grounds that professional academic management structure would endanger the status and privileges of the academic oligarchy. Both positions were legitimised using the rhetoric of autonomy of universities.

Autonomy of universities can be interpreted in totally different ways by different actors. During the reform debate, three concepts of autonomy clashed:

- In the Humboldtian tradition, autonomy is mainly used as a synonym for academic freedom of the individual academic; that is to say, mainly the full professor. Many professors saw this kind of autonomy endangered, on the one hand, by state intervention and, on the other, by academic co-determination of students and *Mittelbau* (junior faculty). From their perspective, autonomy became a buzz word for a kind of restoration of the 'old regime' of academic oligarchy – the chair system.
- Junior faculty and students mainly favoured the concept of the autonomous collegial university. In their view, the focus of autonomy was not the individual academic but the collegial bodies in which they had some representation (after the democratic reforms of the 1970s). Those collegial bodies should govern the university without any interference from the state. Sufficient and unconditional funding by the government was simply taken for granted.
- Politicians and state bureaucrats advocated the concept of institutional autonomy; they wanted to turn universities into enterprises which were self-governed with respect to not only academic, but also financial and administrative affairs. They had serious doubts that the existing decision-making structures would be sufficient for the new tasks. They argued that increased institutional autonomy must go hand-in-hand with the development of a professional management structure (Höllinger 1992).

It is easy to see that neither the concept of individual autonomy nor the concept of the autonomous collegial university is compatible with the ministerial reform approach. For a

couple of months the Austrian public witnessed an uncommonly passionate debate in which the multiple opponents imploringly referred to the same keyword 'autonomy' without any clarification or moderation of argument. As a response to this strong opposition, the Minister installed a project team which tried to reach a compromise between the ministry's proposal and the ideas of the different actors of the university. In May 1992, the Orange Paper was published which clearly softened the managerial approach of the first reform draft (BMWF 1992a). There was still a division of collegial and managerial elements. However, there was a shift of power to the former. The executive body (*Präsidium*) was now to be chaired by the rector who was to be elected by the collegium (*Universitätsversammlung*). The external board for each university now had less responsibility than proposed in the Green Paper. Instead, there was now more emphasis on the entire university system by creating a buffer body between the ministry and the universities (*Universitätenkuratorium*). The proposal of some kind of lump sum budget for the whole university system which would now be distributed by the *Universitätenkuratorium* remained in place.

The Orange Paper continued to be rejected by the interest groups of academics and students. They argued that even the softened managerial approach was in conflict with the idea of the university. In December 1992, a draft for a new organisational act (White Paper, BMWF 1992b) was published which withdrew some elements of the Orange Paper. The traditional chair structure in a multitude of small institutes, many of them with only one professor, basically remained unchanged. The concept of lump sum budgets was weakened; the Ministry of Finance was strongly opposed to giving a lump sum to universities on the grounds that the managerial power and responsibilities of persons in leadership positions were not sufficient. After a review process which resulted only in minor changes, the new act (UOG 1993) was passed by Parliament in October 1993. Like its predecessor, the UOG 1975, it was one of the most divisive and heatedly discussed acts in Austria. In the academic year 1994–95, the UOG 1993 was implemented in five universities, in 1995–96 at the next five, and in 1996–97 the remaining universities started to implement the new act. In the large universities with a traditional faculty structure (Vienna, Graz, Innsbruck and Salzburg) the implementation was not finished until 1999.

#### **4. UG 2002: The universities as full legal entity**

It was probably the most important consequence of the UOG 1993 that a new type of actors emerged in higher education policy: the new rectors who – compared to the former type of rector – had significantly increased power; additionally the deans became much more powerful than previously. The emergence of this new group of academics, which was small but quite influential, significantly changed the power relations in the higher education policy networks. In many respects this group crosses the usual frontlines between the government and the universities. It was important that the new senior academics became more sensitive to external needs and pressures; they could no longer be regarded as a group representing the internal interests of academe, but increasingly as a mediating power.

It was mainly this group who complained that the UOG 1993 was only a half-measure, and merely a first step which omitted some of the most important factors. What they wanted was in many respects the same as the government intended with its first draft for the UOG 1993: full legal entity for universities and a lump sum budget which would relieve universities of the state accountancy (*Kameralistik*). When the government took up this initiative and started to develop a new reform strategy it was not in the uncomfortable position of fighting alone against a united front of academic estates; rather, it had a powerful ally within the university

(who at least strove for the same goals). Some members of this group were actively involved in drafting the reform law (Titscher et al. 2000).

A first draft for the sanctioning of universities as full legal entities was issued in 1998 by a government consisting of a coalition between the social democrats and conservatives (bm:vv 1998). This draft was in line with the Austrian tradition of consensus politics: it left sufficient room for debate and negotiations. The cornerstones of this draft were the following:

- Universities should be relieved from the fiscal regulations of the federal budget and instead receive a lump sum budget for their own discretion. However, there was no intention to base the block grants on indicators; rather, the available resources for higher education should be allocated on the basis of a mixture of incremental budgeting (85% of the budget) and performance contracts.
- The establishment of a Board of Regents (*Universitätsrat*) for each university, consisting of 10 members, five of whom should be elected by the academic senate, and the other five appointed by the Minister.
- Strengthening the position of the rector, who now was to be elected by the board and thus independent of all collegial academic bodies.
- The new act should not prescribe the internal organisation of universities other than the general regulations regarding the decision-making structure. The organisational details should be determined by a statute (*Satzung*) decided by the academic senate.

Taking part in the reform would be voluntary (at least during the initial phase); each university would be free to stay with the old organisational model if the majority of the academic senate decided to do so. This was intended to help to relax some of the most fundamental controversies. Some small and flexible universities which already impatiently wanted to move ahead could do so while the large universities which – due to the complexity of their decision-making structure – were more rigid, could wait and see.

It came as no surprise that the draft was criticised by the academics. However, this was not a unanimous refusal of the draft (as was the case during the debate of the UOG 1993), rather, one can distinguish two sides of the critique:

- The draft was refused flatly by the interest groups of students and junior faculty and by a large number of individual academics. Those people complained about being permanently involved in badly conceived and never-ending reform activities. And they were strongly opposed to the basic tendency of the draft: the strengthening of managerial functions. This kind of critique reflected an unconditional disapproval of any step to give more institutional autonomy to universities.
- On the other hand, there was a more pragmatic (or constructive) critique which basically agreed with the overall goals of such a reform but rejected particular elements of the draft. This was the position of most rectors and their networks. The emphasis of this group was that the draft, in particular the funding arrangement, was not sufficiently reasoned. With respect to the performance contracts, the rectors' criticisms were that the ministry, instead of measuring output, wanted to intrude in the process of teaching and research. In addition, there was concern that the government wanted to pass some 'hidden costs' of the reform on to the universities. In order to build an alliance with the Rectors Conference, the ministry agreed to fund a project which would clarify those objections and deepen the expertise with respect to the financial, legal and organisational aspects of the reform.

However, by the time the Rectors Conference working group presented the outcomes of this project to the public in the summer of 2000 (Titscher et al. 2000), the political situation had



changed. Austria was no longer governed by a coalition of social democrats and conservatives; the new government was a coalition of conservatives and the right wing populist 'Freedom Party'. This new government can be characterised by a fundamental change not only in political direction but also in the style of policy making. In order to foster radical change in a short time it took leave from the traditional consensus politics which were regarded as too ponderous. The new trademark, proudly announced by some leading politicians, was 'speed kills'.

In September 2000, the government for the first time applied the 'speed kills' approach to higher education by introducing tuition fees without any consultation and only two weeks after the Minister had categorically ruled out the possibility of fees during her term. A few weeks later (December 2000) the ministry announced a new initiative towards organisational reform. This time, however, it was not an invitation to a debate but a straightforward timetable without any possibility to opt out of the reform process. A first draft for the new act was published in August 2001 (bm:bwk 2001); in many respects it picked up the thread of the earlier draft (1998), but it unmistakably also showed the new government's hand. The 'speed kills' philosophy demanded a tight schedule: the new act should become effective as from October 2002 and should be implemented immediately and simultaneously by all universities.

- The governing board should consist of only five persons, a majority of whom would be appointed by the ministry. The functions of this body were vastly extended, partly overlapping with executive functions.
- The new draft put stronger emphasis on managerial functions: collegial bodies were thrust into the background and lost almost any significance. Leadership functions in all organisational units were to be appointed by the rector. The only collegial body with decision-making power should be the academic senate, but even the function of the senate was devalued.
- The new draft put very strong emphasis on formal hierarchies. Participation of junior faculty in the academic senate was strongly restricted; junior faculty members were excluded from any executive function even at the institute level.
- The allocation of the federal budget should be based on performance contracts. As in the earlier draft (1998), the ministry avoided specifying any quantitative indicators as a basis for the allocation process.

As with the former draft, the critique from the academic side was passionate but there were different kinds of critique. Most important were the objections of those who basically agreed with the goals of the reform (Österreichische Rektorenkonferenz 2001). The emphasis of their critique was as follows:

- While the draft is based on the principles of 'new public management', the government has neglected to clarify its own strategic goals in higher education policy.
- The governing board's competencies are too far-reaching. The functions of the board should be limited, its size should be enlarged (up to 11 members).
- The academic senate should play a more eminent role. In addition to the senate, collegial bodies on lower levels with decision-making power are crucial for the life of a university.
- The concept of the performance contract is not sufficiently elaborated. The legal obligations which result from that contract are not symmetrically balanced.
- There is uncertainty whether higher education institutions will be sufficiently compensated for the increase of personnel cost, due to the change from public to private contracts (contributions for pension).

As a result of the negotiations, the government changed its draft on some minor points. The substance of the new organisational act (Seböck 2002) can be summarised as follows:

- Universities are no longer agencies of the state without legal capacity, but they remain in the domain of the public law, they are ‘legal persons under public law’ (*Körperschaften öffentlichen Rechts*).
- The federal government keeps the responsibility for basic funding; resources are allocated on the basis of performance contracts. Twenty per cent of the budget allocation must be based on indicators.
- The size of the governing board (*Universitätsrat*) is to vary between five and nine members, according to the statute. Compared with the first draft, the spectrum of functions of the board was limited towards a supervisory profile.
- The executive board (*Rektorat*) is to consist of a rector and up to four vice-rectors. The rector is elected by the governing board from a proposal by the academic senate.
- The size of the academic senate is to vary between 12 and 24 academics, according to the statute. Full professors must have a majority. The senate has the power to establish committees for *Habilitation* (second thesis), appointments and study affairs.
- All academic personnel are to be employed by the university on the basis of private contracts. Only two types of academic personnel exist: full professors and other academic personnel.

## 5. Some problems with the new pattern of governance

For better or worse, the new act probably makes Austria a leader in the ‘managerial revolution’ on the European continent. Policy makers will regard this as a success. Academics, even academics in leadership positions who basically support the reform, have mixed feelings. There are two issues of particular concern.

(1) The first issue is funding. It is hardly surprising that conflicts about the level of public funding for universities continue to be one of the dominant higher education policy issues. However, it is dubious that the government has not yet established a transparent formula how to allocate public funds among universities. In former times, when universities have been state agencies, the ministry had a high amount of discretion to make such decisions. No need was felt to make such decisions transparent to the public. The status of universities as full legal entities changes this situation significantly. There is now more pressure on the government to establish a transparent funding formula which secures that – *ceteris paribus* – all universities are treated equally.

Up to now the government has issued the following funding procedure. Starting in 2007, 80% of the public funds for higher education will be allocated on the basis of “performance contracts” between the government and each university. However, no indicators are available – nor is the development of such indicators envisaged – which would serve as a measure of performance. 20% of the budget allocation will be based on indicators. This funding pattern continues to assure strong discretion by the ministry and it is likely that it will create mistrust between universities and the government.

(2) The second issue refers to job security of academics. Future academics will not be civil servants. They have no longer a public employment contract with the government, but a contract with the university based on private law. As civil servants, academics had a lifetime position, their employment contract was not terminable. During the last years, civil service status of academics was justified with the need of job security for this special kind of work.

Opponents of civil service status argued with the need to abolish job protection on the grounds of inefficiency. Both sides more or less assume that civil service is the only feasible option for job protection. To date, there has not been a serious debate about a tenure system which would provide for job protection even under private employment contracts.

Do academic jobs deserve a special kind of protection, and why? This question was mainly dealt with as an issue of academic freedom. This reflects a past experience of pre-democratic societies, with censorship of government or church. Much less (if any) attention was paid to the economic rationale for tenure. The importance of the free expression of divergent views must not be underplayed. However, there are equally strong reasons for a special job protection of academics which have to do with the economic features of their work. Tenure can be regarded as “a reasonable way of solving the peculiar personnel problems that arise in employing expensively trained and narrowly specialised people to spend their lifetimes at well-defined and narrowly specialised tasks” (McPherson/Winston 1988, 175). Such economic reasons for job protection of academics were not raised in the public debate and were not considered in the law.

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