

## Dubrovnik Conference on Higher Education:

Addressing Questions of Institutional Reforms in Creating the European Higher Education Area

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### **Austria: The most sweeping reform in 150 years**

Like many other countries, Austria is striving to contribute to economic, social and cultural progress by innovating in education and science. An important aspect of this is reform of the universities, which are currently making the transition from state control to autonomy.

What I can present to you is merely an interim report. The reform legislation, which was the culmination of efforts going back about ten years, was passed in 2002. Since then it has progressively entered into force, the key date being 1 January 2004.

The reforms involve changing existing institutions with long, powerful and in part passionately upheld traditions. We have therefore had to deal with legacies from the past. However the thinking behind the new universities that will emerge from the transformation process is European and international in its orientation, and is based on a thorough assessment of university systems in other countries.

#### **1. The reform goals**

In a nutshell, the reform objectives are: (1) enhancing the universities' research and teaching performance; and (2) improving their use of financial resources. The aim is for the Austrian universities to remain international players in research and teaching where this is already the case, and for them to become internationally competitive as quickly as possible where it is not. Areas that are unable to meet this yardstick within the next few years will, at least in the medium term, forfeit their right to continued existence.

The recent reforms were the most sweeping in 150 years. After the 1848 revolution Austria adopted the Prussian Humboldt model. On 1 January 2004 the universities became legal entities. The reform today enables the universities to become independent, efficiently run institutions which are accountable for their actions. The task of Parliament and the

government was to establish new principles for the universities' development. They are responsible for that development — naturally with support from the state.

The aim of reform was to induce the universities to contest educational markets more actively, and to expose them to competition whilst also — and this is no contradiction — cooperating more closely where expedient, with top-class partners.

Study law, i.e. the law governing degrees, the workloads associated with them, and the legal security of students, remains a sovereign responsibility of the state. Every university has an office responsible for ensuring that students' rights are observed.

The mainspring of this reform model is a confidence in the ability of the universities to renew themselves, and to make full use of their autonomy under the new legal framework. Of course, they are to receive the necessary assistance in this, but not in the form of directives from state bodies. The guiding principle is voluntary cooperation.

## **2. Weaknesses of previous reforms**

What we have learned from the past: After a period of restoration and standstill that lasted almost 20 years after 1945, modernisation policies were adopted in the mid-sixties. These were prompted by the 1964 OECD report, shortages of highly qualified labour, awareness of the need to invest in education and science, and the growing demand for higher education ("Our children should have a better deal than we did.") There were two objectives, both amenable to a single policy response: the economic goal of accelerating growth by increasing the supply of graduate labour; and the social goal of fulfilling the pledge of equality of opportunity by expanding access to higher education. These aims, and the policies born of them, have lost none of their relevance today.

The universities were taken so seriously in the sixties of the 20<sup>th</sup> century that responsibility for their detailed management, including the academic study regime, was transferred to the legislature. The regulations that gave substance to the universities' organisational design were derived from enabling legislation. However as time went by this system became divorced from its creators' intentions, and its effects were reversed. No longer was it the will of society, enshrined in legislation, the driving force at the universities. Instead, in many areas the decision-making processes were very different. Well entrenched pressure groups in the universities were adept at drafting rules that furthered their interests, and giving them the force of law by winning governmental and parliamentary support. In this way state regulation became a stalking horse for the powerful forces of conservatism in the

universities. In a manner of speaking, these rules came back to haunt the universities, which bemoaned state “over-regulation“ even though it was to the advantage of the academic establishment. By the end of the eighties critical observers were aware that the traditional bureaucratic system had become dysfunctional and degenerate. It became increasingly clear that the rule-based approach — which naturally also embraced bending the rules — must be replaced by a goal driven ethos.

The student and staff participation introduced in the mid-seventies, which went particularly far in Austria, brought a breath of fresh air to university governing bodies, but failed to break the mould of state control. Except in a few areas, the governing bodies were only able to petition the Minister, and they could not take decisions of any importance. Because of the countless majority votes required, the participatory university constitution worked in favour of the teaching staff.

### **3. Organisational structure**

The governing bodies of the 2002-universities are the senate, rectorate and university council. The senate takes decisions on typical academic matters such as curricula and shortlists of candidates for professorships. The professors hold a majority of 50% plus one seat on the senate, and the students have 25% of the votes. The university’s business affairs are run by the rectorate. This consists of the rector and the vice-rectors, who have specific areas of responsibility. The division of responsibilities is for the rectorate to decide. The rector is the chairperson of the rectorate and its representative. The university council may have five, seven or nine members of whom two, three or four are appointed by senate and the Government, respectively. These persons elect a further member. The rectorate must submit decisions on certain important matters — namely, the development plan, draft organisation plan and draft performance agreement — for approval by the university council.

Like the works council, the university’s equal opportunities working party must be consulted on all personnel matters, and has the right to suspend an act of management and submit them to arbitration.

### **4. Autonomy**

What was new about the degenerate system described above was the ability to give one’s wishes the force of law whilst complaining about lack of autonomy. If institutional autonomy has to be implemented there is no room for half-measures. The first proposals to turn the universities into legal entities were made in the early nineties. The backlash was fierce because on reflection it was quickly seen that lamenting one’s lack of independence while

pulling strings behind the scenes was far more comfortable than the freedom to take real decisions and accountability for their consequences. It also emerged that most university members regarded autonomy as synonymous with their own freedom rather than self-government by the university as an organisation. It was soon suspected that there would be little place in an autonomous university with a strong, independent management for the liberties that individuals had been able to take with the old bureaucratic system. To win such people over it was vital to link the independence of the university as an organisation with a maximum of personal academic freedom.

It goes without saying that the form taken by autonomy depends on money, in the shape of the ability and willingness of the state to pay for universities. Limits have to be set to this, and they are bound to be political limits. At the same time there are traditional educational obligations that the universities must fulfil, because the skills in question are needed. Most of the funding for state universities continues to come from the taxpayer, and it is thus legitimate for the state to exercise a guiding role — but by acting as a partner, rather than dictating to the universities.

## **5. The new state-university relationship**

The reform legislation 2002 replaced the traditional relationship between the government and the universities, based on the sovereign control of the state, with a collaborative model. The universities are full legal entities. The state, represented by the minister responsible for higher education, concludes performance agreements with the universities which specify the services to be rendered by the latter in return for government money. The state has a statutory obligation to fund its universities. The key point here is that, in contrast with the old system, the performance agreements are drafted not by the government but by the universities.

New recruits to the system are now employees of the universities. They are no longer civil servants under the aegis of the government. The chief executive of the university, and hence the officer ultimately responsible for personnel matters, is the rector. During the transitional period the civil servants already on the staff retain all their rights, but their positions cease to exist when they retire or leave to take up foreign appointments.

The performance agreement is a public law contract with a three-year term. The rector submits the draft as a basis for negotiations to the minister, eight months in advance of the three-year agreement period. The draft requires the approval of the university council, and is the product of consultation processes. There are recommendations from the recently

established Austrian Science Board, and the government's wishes to be taken into account. There is discussion of the last performance report and the financial statements. The basis of the draft performance agreement is the university's development plan.

If agreement is not reached an arbitration procedure is initiated. The arbitration panel includes a judge and nominees of the university and the Ministry. If arbitration does not lead to an agreement both sides have the option of bringing an action in the constitutional court. However there are strong reasons for avoiding such a step, and I am fairly certain that both sides would be under heavy political pressure to settle. The provisional budget set in the absence of an agreement may not be reduced by more than 2% from that of the previous year.

The performance agreement governs those activities of the university that the state is legally obliged to finance. Naturally, apart from these resources there are those of the national research funds, for which the universities can compete. And there is the opportunity, which they are already exploiting, of applying for European or other international research funding. This is not to speak of contract research which already plays a major role in some fields.

## **6. Measures taken between 2002–2007**

The reforms have transformed the Austrian universities not into businesses, but into “quasi-commercial entities”, the form of which takes account of the difference between a university and a commercial undertaking. It was necessary to impose some statutory obligations on the universities to enable them to embark on the necessary change processes. These have been fulfilled with admirable expedition, and a constructive attitude on the part of the new university managements. University councils, rectors and vice-rectors have rapidly been appointed, and senates elected. The universities' organisational charts have been modified, in that faculties and institutes have been restructured or abolished altogether. For the first time development plans expressing a serious commitment have been prepared. A new accounting system, tailored to the universities' needs, has been introduced, opening balance sheets drawn up, and annual financial statements published. Last year a start has been made with the first performance agreements for the years 2007, 2008 und 2009. In addition, the universities have been making intense efforts towards voluntary implementation of the Bologna architecture. The Austrian universities are currently substituting the Bologna architecture for the traditional degree systems — in some cases, across all fields of study. The universities are paying increasing attention to international developments and have stepped up their international cooperation. The universities and the Ministry have jointly developed new management tools, mostly aimed at improved control, in the shape of

intellectual capital reports, the 20% indicator-linked budget component, and the activity reports.

By November 2005 the government had established the overall budgets of all the state universities during the first performance agreement period, 2007–2009. These are higher than the current budgets.

## **7. Change processes between 2002–2007**

The findings of studies on the transformation processes at the universities are not yet available. However I can safely say that like many academic and political observers I have noticed major changes. The universities have responded to autonomy self-confidently, and are making the most of their new opportunities in terms of sharpening their academic profile, and of staff appointments and course offerings. However some have been more courageous than others, and the legacies of the past are still apparent in places. Yet there is no mistaking the shift towards a new thinking — namely, a commitment to improved performance and better use of resources. Acceptance of the Universities Act is undoubtedly growing. Many university officers have identified chances to compete in the marketplace, and are acting accordingly. Many members of the universities who have little interest in organisational matters *per se* have nevertheless recognised the new opportunities open to them. For instance, there has been an increase in applications to the Austrian Science Fund.

There are also instances of demotivation, particularly among former office holders. Naturally, there is resistance to change, to rectors who are felt to be excessively authoritarian, and to the new university councils. Often, it is in the academic senates, which have been given little power by the reform legislation, that dissent is articulated and communicated to the internal university audience.

Universities' objectives and development plans, and their strengths and academic priorities are the subject of serious and heated debate, which was not the case before. The new, and sometimes very energetic leadership being given by the rectorates is being closely and critically monitored, but is meeting with growing approval. The university councils, whose members must be external appointees, are no longer being demonised as an alien presence, but are viewed as supervisors of the rectorate, as mediators in conflicts, and as management bodies that generally have the development of the university at heart.

## **8. Strengthening basic research**

The new university remains a centre of fundamental research. This is research dictated only by scientific curiosity, and in which the prospects for commercial exploitation of the results either play no part at all, or at least a subordinate role. This is also the kind of research that generally runs the highest risk of failure. Yet it is the bedrock of all science, including applied research. However where perspectives for commercialisation emerge universities must take a professional approach to securing the intellectual property rights, while giving the researchers concerned a share of the rewards.

Fostering young research talent and increasing the number of researchers is one of the most important challenges facing the universities, and replacement of the old-style doctoral programme by the new PhD cycle in line with the Bologna follow-up process thus forms part of many development plans. The reform legislation expressly entitles all academic staff, regardless of age or status, to perform third-party funded or contract research without their superiors' consent, provided that they do not neglect their duties under the performance agreements.

While the universities are still required to prepare students to enter certain professions, their efforts to use their independence have tended to concentrate heavily on determining the thrust of their research. As a result more emphasis is being placed on research combined with teaching. More government money is being awarded competitively, rather than being channelled through larger basic budgets.

The universities have a statutory duty to establish quality assurance systems. They are taking this seriously, but some have made more progress than others.

The groundwork is currently being laid for the foundation of a new university with the working title of "Institute of Science and Technology - Austria" (IST-A). This institution will aim to attract original thinkers from all over the world. It will be a research university, and will only offer PhD programmes. It will probably specialise in frontier areas of biology and physics. IST-A will be designed to achieve the very highest standards of excellence. It will be free from any encumbrances of the past. It is expected to commence operations next year.

## **9. Academic freedom**

The transition from state controlled universities to independent entities has in no way meant the loss of the traditional right to academic freedom, as the critics feared. This right applies to

all members of the university, be they new academic employees, civil servants, students or technicians. Every academic is entitled to choose his/her field of research. And there is a legal guarantee that there may be no compulsion to perform work that conflicts with a researcher's conscience.

The performance of the staff concerned is subjected to tight, ongoing monitoring. Careers are no longer a matter of automatic, civil service style progression, but can be built on achievement.

## **10. Going forward**

As I have said, the changes are there for all to see, but they are still in their early stages. It will probably take another decade before they have resulted in universities that entirely function in the new way. Up to the end of the current decade 40% of all serving professors will have reached retirement age. Rectors are already making use of the resultant opportunities for renewal, including the dropping of some academic disciplines and the development of new ones by recruiting new staff. It is vital for this period of further change that there should be no relapse into earlier patterns of behaviour, for instance due to legislative interventions, even if these only concern parts of the new system. This surely is a potential battleground.

An undoubted weakness of the new system in Austria is the lack of opportunities for the universities to accumulate assets. Ownership of federal land and buildings has not been transferred to the universities. The universities have become tenants of a profit oriented, federal government owned company. This decision was inspired by overall fiscal policy considerations, which took precedence over the important higher education policy goal of university asset formation. Perhaps it will be possible to find a creative solution to this problem in the next few years.

Until recently Austria was one of the few countries to have had universal access to higher education. Admission was open to all holders of an Austrian higher secondary school leaving certificate. The verdict of the European Court of Justice in the summer of 2005 has put an end to this situation. All EU citizens must be accepted under equal conditions. However open university access is no longer tenable in the face of the large numbers of German *numerus clausus* (admission limit) evaders coming to Austria. An unfortunate situation has occurred which cannot be tolerated. It seems to me that open access to the universities, introduced at the start of the expansion phase, some 30 years ago, has had its day, yet it remains a political sacred cow. Some original thinking is called for.



There was little opposition to the moderate, flat-rate university fees introduced in 2001 and incorporated in the 2002 reform legislation. The fees amount to € 363 per term for citizens of Austria or other member countries of the EU, are being retained. Citizens of all other countries will be charged € 726 per term. All students must pay them, but they are refunded to recipients of Austrian state scholarships (outstanding students with limited means). The fees are waived for students from the least developed countries as well as for students in transnational EU, national or university mobility programmes. Universities can decide themselves on the refund of university fees to students of certain countries.

The students are balloted on the use of university fees; they select priorities from a list drawn up by the senate. All the statistics demonstrate that university fees have not resulted in any social discrimination.

Once the universities have found their feet after some years of autonomy and are more successful than at present, the current system will not be the best of all possible worlds. Here, too, further change is foreseeable. It goes without saying that the Universities Act has its defects, but most are of minor importance. They must be corrected in coming years without harming the new system as a whole.

Universities can perform if they are allowed to.

## Universities Act 2002

