Chapter 30
A Cross-National Comparison of Higher Education Markets in Western Europe

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30.1 Introduction

New modes of governance have been widely reported in the literature, in higher education as well as in other public domains (Kehm and Lanzendorf 2006; OECD 2008; de Boer and File 2009; Paradeise et al. 2009; de Boer et al. 2010; Paradeise 2012; Middlehurst and Teixeira 2012; Amaral et al. 2012). For several reasons traditional modes of governance have been discussed, adapted and changed. Policy makers are reconsidering the rules of the game in higher education in order to encourage universities to deliver high quality services in an efficient way. Instead of governance via hierarchy, in combination with academic self-governance, as the traditional way of ensuring the provision of education and research services in higher education, continental Europe has seen the gradual introduction of systems of governance where elements of markets and networks play a role (e.g. Pierre and Peters 2000; Bell and Hindmoor 2009).

When it comes to higher education, nation states have been delegating some of their powers to different levels of government and they did so in three directions (de Boer and File 2009; Middlehurst and Teixeira 2012). One is an upward shift to the supranational level – as policy agendas, strategic choices and regulations are increasingly decided upon at, or influenced by, authorities such as the European Commission (despite the principle of subsidiarity) and international agreements (such as GATS). National governments keep a close eye on European Union developments and the programmes initiated at the European level. Thus, while each country has specific national (or federal) institutions and is responsible for organizing its own higher education sector, it is clearly drawing on programmes and examples from abroad. The Open Method of Coordination is a good example of the impact

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that the European level has on the national higher education systems. A second shift is a downward one, as provinces, local governments and individual higher education institutions themselves are granted greater operating autonomy and responsibilities by their national authorities. Deregulation, though in reality often re-regulation, is a commonly employed strategy whereby the state devolves some of its powers and authorities to lower levels in its higher education system. Here, the overarching theme in higher education governance is 'enhancing institutional autonomy' (de Boer and File 2009; de Boer et al. 2010). A third shift has been an outward one, where traditional tasks of the state are moved to the periphery, such as to national agencies, or even left to private organizations (i.e. privatized). Here one can think of the establishment of accreditation agencies, advisory councils, competition watchdogs, or a changing role for existing agencies (e.g. funding agencies). This also includes allowing private education providers to enter the market and deliver their services to meet an often rapidly growing demand for higher education.

These movements into three directions indicate that governance has not only become more complex and dynamic, but also illustrate that more actors from various levels and domains are playing a role in the higher education systems and policies. In many countries, coordination in higher education changed from a traditional state-dominated type of regulation to a mode in which various actors at different system levels play a role in the coordination of the system ('multi-level, multi-actor governance'). Coordination increasingly takes place through interconnected policy levels where a multiple actors are influencing different stages in the policy processes and shaping its outcomes. This notion of governance which comprises a variety of actors is frequently referred to as network governance (although many other terms are used to describe this mode of governance): the state explicitly involves other stakeholders such as interest groups and private organisations in developing and implementing higher education policy (Middlehurst and Teixeira 2012). Moreover, by explicitly establishing new or shaping already existing policy networks, states steer through networks. There is a growing recognition that the state is not only part of particular networks but is also steering through networks (Kickert et al. 1997).

Apart from this redistribution of authorities and responsibilities among several actors at different levels, governance also increases in complexity due to the fact that education, research and innovation are becoming increasingly intertwined. While in earlier years these areas may have been 'separated' from each other, each having its own governance structure involving different players, rules, traditions and value structures, nowadays the three areas are much more interrelated and constitute a 'knowledge triangle'. Governance has become multi-actor, multi-level and multi-vocal (de Boer and File 2009).

30.2 Market-Based Governance

In this dynamic playing field, states have introduced market-type instruments – prices, contracts, competition – to achieve the realization of the public goals – access, quality, efficiency (e.g. Jongbloed 2003). This market-based governance encompasses not just the delegation of authority from governmental actors to private entities, but also the introduction into public organizations of market-style management approaches and mechanisms of accountability (Donahue and Nye 2002). The state's role has become that of a market engineer; government shapes the rules of the game, intervening to safeguard competition, prevent cartels, but also protect consumers. Moreover, the state is acting as a smart buyer and be able of overseeing its contracted work. In this governance mode, new steering devices have been introduced. Market-based incentives are introduced to promote competition, which should contribute to more efficiency, higher quality and better responsiveness.

Many higher education studies leave not much doubt that there is a clear marketization in European higher education, signaled by privatization, deregulation, establishment of quasi-markets, contracting out (competitive tendering), and the establishment of public-private partnerships (e.g. see Dill 1997; Jongbloed 2003; Teixeira et al. 2004; Lynch 2006). Moreover, particularly in the 1990s when the market philosophy seriously gained ground in higher education, a rather common notion was that more market implied less state. Concepts such as a state 'steering from a distance' gave further breeding ground to such beliefs. But is a state stepping back identical to a state stepping out?

Other literature suggests that the choice between markets and hierarchies is not a zero sum game.[1] The introduction of market mechanisms does not per se imply a reduction of state interference. In other words, the state is not rolling back, nor is its role hollowed out. The shift from state control to state supervision, as described by Van Vught (1989) and Neave and Van Vught (1991), means that the state designs the framework of rules and system policy goals. According to this view, states are employing different strategies than they used to, without necessarily losing power and control. The state still puts its stamp on market-driven higher education systems. New modes of governance such as market-based governance, usually being blends of tradition and new ideas, can be seen as an extension – not as a replacement – of more traditional notions of steering (Bell and Hindmoor 2009:2). According to Keating (2004:6) the marketisation shift is an attempt of the state to maintain or increase its powers to achieve economic and social goals while minimizing efficiency loss. Reforms have been implemented as an effort to govern better rather than govern less. As Jongbloed (2003:131) states, the question is not how much government but rather what can the government do and how can it do that best.

Those arguing that more market not automatically implies less state refer to the state's responsibility for meta-governance. Ultimately, the state determines the rules, for instance on how markets should function. While some rules could leave more discretion to higher education institutions, these rules are still set by the state.

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[1] The governance equalizer, an analytical tool to frame modes of governance in higher education systems, uses this as one of its rationales (de Boer et al. 2007). The equalizer assumes that state regulation and market mechanisms can develop hand in hand; an assumption that seems to hold in practice.

For example, in some higher education systems private providers can offer teaching programmes, or public institutions have the possibility to offer the programmes they want, *as long as* they are accredited by the state (or one of its semi-autonomous agencies). This means that changes in governance arrangements are most of all driven by changes in state preferences and strategies.

What we take from the discussion about the relationship between hierarchies and markets as presented above is that the question to which extent (the introduction of) markets have replaced traditional state-centred governance is ultimately an empirical one. Market-based steering can go at the expense of state control but not necessarily always so. We cannot rule out that market-based devices in higher education systems have led or contributed to the hollowing out of the state. Simultaneously there might be systems characterised by both high level of state regulation and market coordination. In this paper we will present a number of cases of national higher education systems to shed some further light on this relationship between hierarchies and markets.

30.3 States and Institutions in Higher Education Markets

Markets are not a playing field without any rules; there are many playing fields and states are involved. Even in perfect markets, states play an important role, for example as 'market engineer' (meta-governance, defining the rules in higher education), as upholder of justice (overseeing rule compliance) or as client (being one of the actors buying goods and services). In less perfect markets, in which higher education is perceived as a collective good (which by definition implies a more extended role of the state), states could sponsor providers or customers, set a system-wide agenda, and supervise and control system performance (see de Boer et al. 2009). The point is that in these circumstances states do not steer in a top down fashion through regulations that prescribe institutional behaviours in detail, but they certainly do play a role in shaping the arrangements allowing for the voluntary exchange of goods and services and as the result of that affect the outcomes of the system.

We can analyse markets in higher education in different ways. Following Bell and Hindmoor (2009) we may discuss market-based reforms and see to what extent these reforms have materialised in higher education. Market-based reforms refer to privatisation, internal and external markets, deregulation, contracting out, and pubic private partnerships. All these reforms address basic characteristics of markets: private property rights, competition and the price mechanism. We should ask ourselves who has ownership rights, who defines these rights and settles disputes about them. Degree awarding power is one example, intellectual property of discoveries is another. How many providers are there, are they supposed to compete with each other and what do the rules for competition look like? Do their clients, such as companies and students, pay for the services and do they pay the full costs?

Privatisation is a world-wide known phenomenon attached to neoliberal views to slim down the public sector. Privatisation as the reduction in state level provision and corresponding increase of private provision – "the sales of state services" – may imply a transferring of ownership from public to private organisations, a shifting of a sectoral balance without designating existing organisations, an increase in governmental funding and support for private organisations, and a contracting out of functions and services (Bray 1996). Though there can be various reasons for privatisation, the general rationale is that competition leads to more efficiency in service delivery.

The various forms of privatisation are readably observable in higher education around the globe (Altbach et al. 2009). The private higher education sector has gained ground, basically because of growing demand in combination with shrinking public budgets. Discussions about privatising higher education focus among other things on creating a level playing field. In an open market, every provider, public or private, should have the same opportunities to offer its services. The barriers for entering or leaving the higher education market should be the same. Are private providers allowed to offer officially recognised degrees? If this is the case, are the conditions to qualify for public funding the same for public and private providers?

The rise of privates in the public domain also results from the extension of public-private partnerships. Besides market transactions – companies pay for research and students (partly) pay for education – public and private organisations collaborate for a longer period of time to jointly achieve aims that supposedly cannot be reached by them individually at a lower cost. University-enterprise relationship have attracted much attention. Innovation agendas, loudly advocated, encourage closer cooperation between the university sector and the business world. This is for instance clearly announced in the European Commission's "Europe 2020 Flagship Initiative – Innovation Union" (COM 2010).

The issue of ownership is not just related to the question of who is entitled to provide services, but also to what kind of services are offered for what kind of market. In a real market, providers develop, offer and sell services in response to demand. In a higher education market this would mean that institutions decide what services they want to offer. They should specify the contents and objectives of programmes and curricula without restrictions. Moreover, the institutions should also control their resources such as financial means, personnel, and student selection. Without input-control the action repertoire is restricted. In higher education this means that institutions would have to be autonomous in financial and human resource matters and have the right to select their target group and to recruit their students. These issues are closely related to our next point.

Deregulation, and liberalisation, is another market-related reform that swept through public sectors everywhere (e.g. OECD 2008). Taking away legal barriers and granting organisations more decision-making powers would give organisations the opportunities to act like entrepreneurs, who in facing competition must be innovative and efficient in operating. The success of this reform, that aimed to eliminate, reduce or simplify (national) rules and to give organisations and individuals more space to take their decisions, can be questioned. However, it nevertheless has been one of the overarching trends (de Boer et al. 2010). In higher education the enhancement of institutional autonomy has clearly been one of the most visible attempts to reform the system.

Contracting-out, or competitive tendering, is another market-related trend in the public sector, including higher education (Jongbloed 2008; OECD 2008). Services are exposed to competition. This can be a competition among public institutions as well as among public and private providers. Institutions bid for the sponsor's favour, usually the government. The latter points to a specific role of the state (or one of its agencies) in market-driven systems, namely the establishment of tendering and contracting systems. Competitive tendering in higher education is found in the world of research. Third party funding of research is a competitive endeavour that has become a general phenomenon in higher education, though frequently met with scepticism ("independent and critical research will be undermined by sponsors' interests"). But still public research budgets (e.g. national research councils or Europe's framework programmes) are increasingly allocated on the basis of competition.

This competitive tendering is one of the reasons why the boundaries between public and private organisations are blurring. It seems logical that public organisations copy some modus operandi of private companies, since they are 'forced' to play a game based on 'private terms'. This business-like behaviour of public sector organisations is by the way not only a consequence of new rule systems such as competitive tendering but also the result of the implementation of a New Public Management paradigm in which 'managerialism' is seen as one of the key aspects. At the same time it has also been reported that the level of publicness of the privates, engaged in competitions that used to belong to the public domain, has increased (Bell and Hindmoor 2009:125). In being keen on winning contracts for which the terms are largely publicly set, private providers get infused by public values and procedures.

A different but related point is performance-based funding under 'zero-sum conditions'. Funding schemes based on outputs and performance and in which the total volume of the means is given, create a competitive setting. The introduction of performance-based elements is a clear observable trend in contemporary higher education (Jongbloed et al. 2010; Frølich et al. 2010). Performance as measured by means of the number of graduates, study progress, academic output (e.g. publications or citations) or successful valorisation (e.g. number of patents) may be translated into a financial reward (or sanction) for institutions. A desire for potential gains and a fear for possible losses are expected to drive institutions towards high quality and efficient service delivery.

So far the focus has been on the state and the institutions. For perfect markets also conditions on the demand side should be met (Jongbloed 2003). Just like there should be sovereignty for providers, sovereignty for consumers is also needed. This means that businesses and students as the prime examples of customers in higher education,[2] enjoy freedom of choice with respect to which provider and how much services or goods they will buy. To make conscious decisions about providers and products customers require adequate and correct information on the relationship between price and value for money (including quality). Finally, on real markets, subsidies do not exist, which implies that customers will pay cost-covering prices.

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[2] In real markets governments are customers as well. They pick the services of some providers for which they are willing to pay a certain price.

In this section we have presented some general notions on markets that in general seem to apply to higher education as well. Because the content, timing and intensiveness of the reforms in combination with country-specific path dependencies vary across countries (e.g. see Chap. 31 by Paradeise), a more focused approach is needed to further our understanding on the relationships between states and markets. Therefore, in the remainder of this contribution, we will focus on one specific market condition in seven West European countries: England, France, Italy, the Netherlands, Norway, Portugal and Switzerland. We assume that university autonomy is a prerequisite for higher education markets. In such an ideal-type situation, universities have the ability or capacity to act and are free from external constraints, otherwise they cannot be expected to behave as 'entrepreneurs', acting independently, and pursuing the goals they have decided upon themselves. To meet the demands, they need room to manoeuvre.

30.4 Possibilities of Public Universities to Operate on Markets in Higher Education[3]

Jongbloed (2003) distinguishes eight conditions for markets: four 'freedoms' for providers and four 'freedoms' for consumers. Most of the freedoms for providers are closely related to the concept of autonomy. They refer to the possibility to define the services, to use available resources and to set prices. To operate on a higher education market, universities should be able to design and offer the programmes of their own choice, to control the borders of their organisations, and to determine the price of their services. For seven countries we systematically investigate the formal autonomy situation of their public universities. This formal autonomy gives an indication of the room for universities to operate on markets. For each of the selected countries we look at the possibilities to design and develop services (e.g. start of new teaching programmes), to control resources (e.g. recruitment of personnel, selection of students, establishing internal governance, financial autonomy) and to determine process (e.g. charging tuition fees). Moreover, we take into account external constraints such as mandatory reporting requirements (e.g. quality assessments) and financial independence.

English universities have much discretion in managing their staff: they can appoint full time senior academic staff, both in terms of deciding on how many and which type of senior posts they want to have and to take academics of their choice to these positions. Moreover, they decide, collectively that is, on the general salary levels of their academics. It is up to English universities to decide on procedures for performance assessments or appraisals as well as on procedures for promotions of

[3] The empirical data of this section are derived from the Governance reform project, funded by the European Commission (de Boer et al. 2010; Jongbloed et al. 2010) and the current project "Transforming European Universities (TRUE)", funded by the European Science Foundation and several national research councils.

individual academic staff. The latter reminds us to keep in mind that this concerns aspects of *formal* autonomy. Because it is up to the university, it could decide not to establish such procedures. In practice however university procedures are likely to be influenced by practices of other universities as well as by ‘performance-encouraging’ governmental policies. English universities also happen to have high levels of financial managerial autonomy. They can use the public grant flexibly, set their own tariffs for contract activities, have many opportunities to generate private income and they can build up reserves and/or carry over unspent resources from 1 year to the next. They are somewhat restricted in borrowing funds from the capital market (subject to ministry regulations) and also the charging of tuition fees for undergraduate programmes is not just a matter of the university (limits are set by the government). In terms of ‘product specification’, they are allowed to select their own Bachelors and Masters students, although capacity in terms of number of study places needs to be negotiated between the Higher Education Funding Council for England (HEFCE) and the individual university. They can start new Bachelors and Masters programmes without having ministerial approval or accreditation required. And while universities, across the board, have to take into account some national guidelines with respect to their internal governance structure (e.g. the composition or size of governing bodies), they can select their Vice-Chancellor and they can appoint the members of the governing body.

The constraints for English universities on the actual use of the decision-making competences are relatively low, which means that when looking from a formal point of view English universities are in the position to use their discretionary powers. Compared to the other countries, the English are not ‘very’ dependent on a public operational grant as a source of income: on average, 38% of their revenues comes from the public source – this of course is still a substantial stream of income that in practice can reduce the university’s space to manoeuvre. English universities are relatively free from ex post reporting requirements. They must set up internal and external evaluation systems for their teaching, but it is up to the university if they want to do so for research. In practice universities are heavily engaged in research evaluation exercises. This does not follow from the formal obligation to do this, but because evaluation outcomes are linked to funding. Performance-based funding – linking evaluation outcomes to future funding – as a new way of state control.

In France, the public universities are in a totally different position. Compared to universities in the other countries, their capacity to take their own decisions is limited. While they can decide on the number and types of posts for senior academics, and can appoint persons of their choice for these positions, there are restrictions to be taken into account. They cannot transform the operating budget into positions and an upper limit is set for each university in terms of number of positions and payroll. Moreover, salary levels of academic staff are set and paid directly by the government. The exceptions are faculty recruited on contracts; at the moment this concerns a few academics at a small number of institutions. In terms of procedures for regular individual assessments of performance and the procedures for the promotions of academic staff members the situation is unclear. A recent reform states that a regular assessment should take place every 4 years by a national committee (CNU), but is not put into practice yet. National regulation for promotions stipulates that half of the promotions are decided upon by this national committee and the other half by the university. The financial managerial autonomy of French universities is limited. The universities are allowed to use the public operational grant flexibly and can set the tariffs for their contract activities, but they are not allowed to borrow money on the capital market, the building up of reserves and/or carrying over unspent financial resources from 1 year to the next are subject to ministry regulations, and they must charge tuition fees for their Bachelors and Masters programmes and these fees are set by the ministry. The tuition for Bachelors is €174 per year and for Masters €237 per year. Another restriction is that they cannot select their own Bachelors and Masters students, with the exception of the second year Masters programme. Moreover, to qualify for public funding new Bachelors and Masters programmes are subject to an assessment of a national agency (AERES) and must be accredited by the ministry. Research programming however is a university matter. As regards governance autonomy public universities have to take into account ministerial regulations. The national Act stipulates among other things that universities must have particular governing bodies. Within the national guidelines universities develop their own bylaws. The university selects their president, but the selection procedure is set by the national Act: candidates can apply for the position and are elected by the internal members of the university council. The internal members of the university council are also elected and include students (3–5 persons), faculty members (8–17 persons) and administrative staff representatives (2–3 persons). The capacity of French universities to take their own decisions can be further hampered by the dependency of universities from the public purse (about 87% of their revenues stems from the public purse) and by the formal reporting requirements they have (i.e. their interventional autonomy is low). French universities have to take part in external quality assessments for teaching as well as for research and these processes are determined by a national agency (AERES). Moreover, French universities must establish a multi-year contract with the ministry and the format of this contract is by and large prescribed. This obligatory contractual relationship creates a new mode of control for the ministry.

The Italian picture is mixed. The formal autonomy in terms of human resources and policies is low. For appointing senior academic staff Italian universities cannot decide themselves on the number of posts they would like to see fulfilled. The number of new positions cannot exceed 50% of the turnover and may have restrictions on the type of position. The latest reform requires universities to appoint persons that have passed a national selection and are on a specific list. Salary levels are set by the ministry as are the procedures for promotions of academic staff. In terms of regular academic staff appraisals Italian universities can develop their own procedures, although this might change in the near future if the National Committee for the Evaluation of Italian Universities (ANVUR) will influence, or even regulate, this. In terms of target groups, Italian universities cannot select their own Bachelors and Masters students. They have to accept all qualified students, except for a number of subjects. This implies that the universities cannot control the number of study places. And new Bachelors and Masters programmes are subject to ministerial approval, which contains among other things a check in terms of system capacity planning.

At the same time, Italian universities enjoy considerable financial and governance autonomy. The public grant can be spent flexibly. The universities decide on tuition fees, although there is a minimum fee (set by the state) and a maximum level for student contributions to costs and services which cannot exceed 20% of state funding. The universities can decide on tariff levels for contract activities and they can borrow money from the capital market and build up reserves, although these are subject to ministerial regulations. In terms of governance they can develop their structure, but ministerial approval is required. The selection of the rector in an internal affair, but some rules must be taken into account (e.g. s/he cannot be appointed for a term of more than 4 years and can be re-elected only once). The latest reform however requires that the performances of the rector are evaluated; the rules for these evaluations are set by the National Committee for the Evaluation of Italian Universities (ANVUR). The members of the governing boards (*Senato Academico* and *Cosiglio de Administrazione*) are all appointed by the university. And although Italian universities are to a large extent dependent on public income (65% of their income comes from the public budget), they do not face many ex post reporting requirements nor is it mandatory to establish a multi-year contract with the ministry. They have to take part in external research assessments, but it is neither formally required to have internal quality assessment systems for teaching and research nor to have external quality assessments for teaching.

Dutch universities enjoy considerable financial managerial autonomy, but the governance autonomy is low. With respect to human resources management agreements made at the national level, for instance with labour unions, contain guidelines that leave some leeway to the individual university but cannot be ignored. While Dutch universities can decide themselves on the number of academic posts and select persons of their choice, the general salary levels, and many other labour conditions, are set by the national employer association and unions, followed by local negotiations between the individual university and the local unions. The Collective Labour Agreements at the national level, legally binding the universities, comprises among other things agreements about staff appraisals and procedures for promotions. The decision-making capabilities to manage financial affairs are considerable: they can decide how to spend the public operational grant, set the tariffs for contract activities, borrow money from the capital market, build op reserves and carry over unspent resources from 1 year to the next. They cannot however decide on tuition fees for Bachelors and Masters programmes: they must charge tuition fees that are fixed by the ministry (€1,732 per annum).

Dutch universities have to accept all qualified Bachelors students (with exceptions for some disciplines), although they may ask the minister to fix the number of study places for particular programmes because of limited capacity (so-called 'capacity fixus'). Universities can select their Masters students and as the result of that determine themselves the number of study places for Masters programmes (again, with some exceptions). The development of new Bachelors and Masters programmes is subject to both accreditation (by a national agency – NVAO) *and* ministerial approval. The governance structure is to some extent prescribed by law. By means of university bylaws the universities have some leeway to develop a structure to their taste, but within the legal framework. The national Act stipulates the guidelines for the selection of the rector, which by itself is a university matter (the university supervisory board appoints the rector). The members of the supervisory board, all external, are appointed by the minister. The constraints on the actual use of the university's decision-making competences are considerable. Because 66% of their income comes for the public budget, universities are seriously dependent on this income stream. Moreover, they face several ex post reporting requirements: they must have internal and external evaluation systems for both teaching and research. They have, across the board, the opportunity to decide on the methods they want to use, but these methods are evaluated by a national agency. Moreover, they have to report on their activities in annual reports and audited financial statements. They however are not required to establish a contract with the ministry.

Norwegian universities happened to have a substantial degree of autonomy on various dimensions. The autonomy of human resources management is high. They can decide on the number and type of academic posts they want to have and can select the persons of their choice. Moreover, it is up to the university to determine the procedures for individual performance appraisals and for promotions of academic staff. Salary levels however are set by employer associations and unions at the national level, followed by local negotiations between the individual university and the local unions (cf. the Netherlands).

The universities can select their Bachelors and Masters students and, with the exception of a number of subjects, decide themselves on the number of study places. For Bachelors programmes, qualified students are allocated by a national service agency (SO), but the universities have delegated this authority to this agency. They also have discretion in research and teaching programming: it is for example up to the university to decide to start new Bachelors and Masters programmes. The financial and governance autonomy is much more moderate. In terms of financial management universities are not allowed to borrow money on the capital market and they are not allowed to charge tuition fees. As regards their governance structure, universities can chose between tow legally defined models, but these 'self-determined' models must be approved by the government. The university selects its rector but the guidelines are set by the minister, i.e. the universities can choose whether the executive head should be elected by staff and students or by appointed. The internal members of the governing board are appointed by the university and the external members by the ministry.

Partially because the universities cannot charge tuition fees, they are very dependent from the public grant: 75% of the university revenues come from the public authorities. And there are a number of reporting requirements that may affect the actual use of the university's decision-making competences. They are obliged to report on their activities (annual report, audited financial statement) and must develop a strategic plan. They must have internal quality assessment systems for teaching and must take part in external quality assessment for teaching, in a process that is prescribed by a national agency (NOKUT). For research these internal and external quality assessments are not mandatory.

The public Portuguese universities show high levels of formal autonomy on the dimensions of financial management and governance. For policy autonomy and particularly managerial autonomy on human resources, this is considerably lower. As regards the financial managerial autonomy: the universities can use the public grant flexibly, can borrow money on the capital market (taking ministerial regulations into account), are allowed to build up reserves, and can decide to charge tuition fees. The tuition fees for Bachelors programmes need to take into account a minimum level – the minister decides on this minimal amount that depends on the minimal national wage rate. As regards governance, universities have to take into account the legal framework that to some extent prescribes the structure. According to procedures defined by the university (taking into account the formal requirements set by the law), the university's governing board elects the rector by majority vote. The members of the governing board, being academic staff, student representatives and (a minority of) external persons, are all selected by the university (staff and students by election and externals by co-optation). Portuguese universities have hardly any discretion on human resources: they cannot decide on the number and type of academic posts, salary levels are set by the minister, there are national rules and procedures for academic promotion procedures and the universities decide collectively on the procedures for staff performance appraisals (which gives some leeway to the individual university).

To start new Bachelors and Masters programmes accreditation is required. Moreover, Portuguese universities cannot select their own Bachelors students – qualified students are allocated to study places at different universities by a national agency and the number of Bachelors study places is fixed after negotiations between the ministry and the individual university. For Masters students the situation is different: universities select their Masters student, set the selection criteria and decide themselves on the number of study places. The universities are dependent on public income – 60% of their revenues comes from this source. There are also a number or reporting requirements: for teaching universities must have internal quality assessment systems (but they can decide on the methods they want to use) and have to take part in external teaching as well as research assessments (for which the government sets the procedures). Moreover, they must produce a strategic plan, publish their activities in an annual report, publish the outcomes of evaluations and provide an audited financial statement.

The Swiss data concern the situation of the Federal Institutes of Technology.[4] The formal autonomy of these institutes is, for many dimensions, low, compared to

[4] With some 600 professors, 16,000 staff (13,000 full-time equivalents) and 20,000 undergraduate and post-graduate students, the Swiss Federal Institutes of Technology in Zurich and Lausanne and the four application-oriented research institutes – the Paul Scherrer Institute (PSI), the Swiss Federal Institute for Forest, Snow and Landscape Research (WSL), the Materials Science and Technology Research Institution (EMPA) and the Swiss Federal Institute of Aquatic Science and Technology (Eawag) – produce scientific achievements of the highest calibre. Together they constitute the ETH Domain under the strategic leadership of the ETH Board as the supervisory body (ETH Act, Article 4). Appointed by the Swiss Federal Council, the ETH Board allocates funds to the six institutions within the guidelines set by the government, and administers their real-estate holdings on a fiduciary basis.

the other countries. For the six institutions federal regulations apply. The institutes require permission from the ETH board to establish academic posts. The EHT board is responsible for the nomination of professors on proposal of the university president – based on a selection of an academic commission. The ETH bard ratifies the decision of the institution. Salary levels are set by the government. Procedures for appointments and promotions are decided at the national level and codified in the law for federal institutes of technology, which means that the ETH board rules out the details. The institutes themselves can set the procedures for regular assessments of individual staff performance. The governance autonomy is also very low: the institute's governance structure is legally prescribed in detail and the government plays part in selecting the president (the institute president is appointed by the federal government based on the proposal of the ETH board). The individual institutes do not have a governing board; the functions of such a governing board are performed by the ETH board, whose members are all appointed by the federal government. The institutes have some financial managerial discretion. They decide themselves how to spend the public operational grant, the can build up reserves and/or carry over unspent financial resources from 1 year to the next and they can fix their own tariffs for contract activities. However, they cannot borrow money from the capital market, and they must charge tuition fees for Bachelors and Masters programmes. The level of these fees is set by the government (about €880 annually).

They can freely start up new Bachelors and Masters programmes and research programming is an internal matter as well. But they cannot select their own Bachelors students: they have to accept all qualified student. Regulations for access of Masters are decided upon by institutional departments. The can be more restrictive, but as a rule Bachelors degree holders get access to a Masters programme, at least in the same field. In terms of external dependencies, possibly affecting organisational decision making in practice, we see that they are rather dependent on public budgets (76% of the institution's budget is public money). They also have some reporting requirements: a strategic plan must be developed and its format is largely prescribed. This 4-year plan, to be approved by the ETH board, is the basis for financial agreements. There are also multi-year contracts, one between the government and the ETH board and one between the ETH board and the individual technological institutions. Finally, annual reports and audited financial statements must be produced. At the same time, on contrary to other countries, the technological institutions can decide themselves how they want to be engaged in matters of quality assurance, both for teaching and for research.

In Table 30.1 the main aspects for the seven countries are summarised.

Table 30.1 shows a variety related to the different aspects of autonomy. Because we argued that organisational autonomy is a prerequisite for (higher education) markets, this also implies a variety in rules framing markets in higher education. Across the board, the concept of quasi-markets seems to describe the systems best (Le Grand 1991). The introduction of market-based elements by the state as 'meta-governor' is an attempt to stimulate competition, assumed to enhance efficiency and service quality, combined with (continued) state regulation. The description of the

Table 30.1 Discretionary room for public universities in seven countries

	Staff recruitment and setting salary levels
England	Universities can appoint their staff and decide collectively on salary levels
France	Restrictions to staff appointments and salaries set and paid by the state (with some exceptions)
Italy	Restrictions to staff appointments and salary levels are set by the state
The Netherlands	Universities can appoint their staff and salary levels are given as the outcome of national collective negotiations
Norway	Universities can appoint their staff and salary levels are set by employer associations
Portugal	The state decides on number and type of academic posts and salary levels are set by the state
Switzerland	Academic posts are set by a board whose members are appointed by the state. Salaries are set by the state
	Financial discretion
England	Universities can use public grant flexibly, have the opportunity to generate private income, can build up reserves and can borrow money on the capital market (though subject to state regulations)
France	Universities can use public grant flexibly, but are not allowed to borrow money on the capital market
Italy	Universities can use public grant flexibly, have the opportunity to generate private income, can build up reserves and can borrow money on the capital market (though subject to state regulations)
The Netherlands	Universities can use public grant flexibly, have the opportunity to generate private income, can build up reserves and can borrow money on the capital market
Norway	Universities can use public grant flexibly, have the opportunity to generate private income, can build up reserves but cannot borrow money on the capital market
Portugal	Universities can use public grant flexibly, have the opportunity to generate private income, can build up reserves and can borrow money on the capital market (though subject to state regulations)
Switzerland	Universities can use public grant flexibly, have the opportunity to generate private income, can build up reserves but they are not allowed to borrow money on the capital market
	Tuition fees
England	Fees must be charged, within limits set by the state
France	Fees are set by the state
Italy	Universities decide on fees within limits set by the state
The Netherlands	Fees are set by the state
Norway	Not allowed to charge fees
Portugal	Universities decide on fees, but for Bachelors state regulations must be taken into account
Switzerland	Fees are set by the state

(continued)

Table 30.1 (continued)

	Student selection
England	Universities select their students but number of study places is set/ negotiated with national agency
France	Universities cannot select their students (with some exceptions)
Italy	Universities have to accept all qualified students (with some exceptions)
The Netherlands	Universities have to accept all qualified students (with some exceptions)
Norway	Universities can select their students
Portugal	Universities select their masters student but not their bachelors
Switzerland	Universities cannot select their bachelors
	Starting new Bachelors programmes
England	Up to the university
France	Assessment by national agency and ministerial accreditation required
Italy	Subject to ministerial approval
The Netherlands	Accreditation required and subject to ministerial approval
Norway	Up to the university
Portugal	Accreditation required
Switzerland	Up to the university
	Internal governance structure
England	Freedom but some national guidelines to be taken into account
France	Freedom but restricted by national Act
Italy	Freedom but ministerial approval required
The Netherlands	Freedom but restricted by national Act
Norway	Freedom but ministerial approval required
Portugal	Freedom but restricted by national Act
Switzerland	Legally prescribed in detail
	Dependence from state budget
England	Relatively low
France	Very high
Italy	High
The Netherlands	High
Norway	Very high
Portugal	High
Switzerland	High
	Ex post reporting requirement (accountability)
England	Formally relatively free from reporting requirements – they must set up internal and external evaluation systems for teaching
France	Severe reporting requirements – participation in external teaching and research processes that are determined by a national agency
Italy	Rather limited reporting requirements – mandatory external research evaluations
The Netherlands	Several reporting requirements – mandatory internal and external systems for teaching and research
Norway	Some reporting requirements – mandatory internal and external quality assessments for teaching; processes prescribed by a national agency
Portugal	Several reporting requirements – internal and external quality evaluations; for some of them the ministry sets the rules
Switzerland	Limited reporting requirements

seven countries in terms of items related to organisational autonomy of public universities clearly demonstrates that the (conditional) freedom of institutions is still constrained in many ways, although differences between the higher education systems exist. The universities in the West European countries have more leeway to make their decisions than the South European universities. However, in all systems the presence of the state is evident. In France, Italy, Portugal and Switzerland staff recruitment is regulated, especially regarding the setting of salary levels. While universities have financial discretion, they have not much choice on tuition fees: they are not allowed to charge fees or they must charge fees whereby levels are set by the state. This means that the 'entrepreneurs' in higher education cannot set the prices for teaching services. With respect to student selection and the starting new programmes we witness significant differences between the seven systems. In England, Norway and Switzerland universities can decide to start new Bachelors programmes; in the other countries this is subject to state-control. With the exception of Norway, universities cannot select their (Bachelors) students, or this selection by universities is subject to regulations (as is the case in England). Also the internal governance structure of universities is legally restricted. Thus, in most countries the possibilities for the university to control the 'production process', to design and develop the 'product' and to set the price for the 'products' is constrained. Moreover, in six of the seven countries the universities are very dependent on the public budget. This dependence further limits the university's possibilities to drift too far from the state.

30.5 Conclusion

Governing higher education through markets has been advocated in many countries and seems to have become one of the major governance rationales. In every European higher education system, market-based instruments and incentives to pursue of what is considered as public goals have been discussed and implemented. Market-based governance however does not automatically imply that the state is stepping back or is being hollowed out. Markets are institutionally underpinned, and states keep playing an important role in establishing and maintaining the rules for the markets. The actual shift in balance between government regulation and market governance is ultimately an empirical question.

Assuming that universities must be autonomous when operating on markets in higher education, in this paper we assessed the level of university autonomy in seven European countries. Using a number of indicators reflecting the university's formal capacity to act independently, as market-type actors are expected to do, we observe that in contemporary higher education public universities are still 'state-controlled' in several ways. Table 30.1 has shown a picture in which many state regulations are readably observable. From this we draw the conclusion that market-based governance does not tend to reduce state intervention but is rather a different strategy to pursue public goals. As argued by Van Damme (2011), states simply cannot afford it to give up, because the economic and social significance of the higher education sector is simply too important for them.

To a large extent this fits the shift from a state control to a state supervision model (Van Vught 1989). States have therefore not been disappearing but have adapted their approach and complemented their repertory of steering instruments. The introduction of more ex post accountability requirements, performance-based funding schemes and contractualisation are examples of the nation state's new steering regime. These aspects are also observable in Europe's modernisation agenda for higher education (COM 2006, 2011; SEC 2011).

Despite all the reforms over the past decade and the initiatives for future reform, we have argued in this contribution that European higher education systems are still quite far away from markets in higher education. A more market-type of governance is not very likely to emerge in the coming years, as long as institutional autonomy remains restricted (being one of the reasons). The success of market-based governance in the future will further depend on mutual trust in the institutional underpinnings of markets in higher education and on the capacity and willingness of both the state and the higher education institutions to play their respective roles as meta-governor of markets and strategic actors on markets. The state should discipline itself to resist the temptation to (again) micro-manage the sector in a different way (for example by nailing down every single detail in a contract). At the same time, higher education institutions need to further strengthen their strategic potential to successfully position themselves on education and research markets. For this, unambiguous academic commitment to the institution's strategy is required. The latter however is not something academics are known for, to put it mildly, and this makes, among other things, the realisation of markets in higher education less probable.

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