

# Higher Education governance and policy in Spain

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Received: 03 August 2023; Accepted: 23 September 2023; Published: October 2023

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## Abstract

The knowledge society of the 21st century is undergoing important changes in the field of information, communication, and globalization, which has led Higher Education Institutions (HEIs) to play a leading role in its sustainable development, based on three fundamental pillars: social, economic, and environmental, which go beyond its traditional role based on training students to obtain a professional degree.

The need to address these significant changes and improve the quality and efficiency of HEIs has led to a reassessment of their governance structures, which require a more agile governance system that includes professionalized management. The most recent analyses on governance agree that the current mechanisms and systems of participation and decision making must be modified to guarantee greater effectiveness, and an improvement in transparency and accountability with the aim of contributing to promoting the role of the university in society, highlighting its contribution to innovation, research, generation and transmission of knowledge, and fostering collaboration with the business environment to promote the socioeconomic development of the surrounding area. This article analyses the role of the governing bodies in Spanish universities, highlighting the challenges and threats, and providing critical insights that result in improved self-governance.

**Keywords:** Higher Education Institutions; university governance; educational policies; university senate; governing council; social council; governance policies

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**To cite this article:** Rubio, F., Llopis-Albert, C., Zeng, S., García-Hurtado, D. (2023). Adequacy and influence of governing bodies in the administration of Spanish universities. *Multidisciplinary Journal for Education, Social and Technological Sciences*, 10(2), 59-76. <https://doi.org/10.4995/muse.2023.20181>

*Rubio et al. (2023)*

## 1. Introduction

During the last decades, the higher education institutions have been moving away from a traditionally elitist conception in order to reach wider and wider sectors of the population. The University of the 21st century cannot remain isolated and turn its back on society, but must deepen its capacity for transformation, its significance and service capacity in relation to the social, cultural, and economic environment in which it operates (Brennan, 2010).

The new objectives and goals of universities, focused not only on higher education but also on research, development, technology transfer and the acceptance of new social responsibilities as political priorities of the governments in power, have been transforming them, affecting their organization and governance. The European Higher Education Area (EHEA) was established by 48 countries and has evolved over 20 years (EU, 2011). Within the framework of the EHEA guidelines, the Bologna Process Implementation Report (EU, 2020) together with other regulations and policies dealing with governance and funding issues, important reforms of the Spanish educational system have been promoted to achieve more faculty, staff, and student participation; institutional autonomy; external quality assurance mechanisms; public accountability and competitive universities that are more focused on the society they serve. Moreover, several policies have been developed to foster university-business relations, to improve funding for research and education, and to recognize and reward excellence in teaching in higher education (Bennetot-Privot and Estermann, 2018).

Since society increasingly demands greater effectiveness in management, accountability, and transparency in the institutions it helps to finance, one of the central issues is university governance (Estermann et al., 2021; Gavara de Cara, 2018; OECD, 2003).

University governance is a concept that affects and transcends university government itself. Governance marks the relationship between the University, the State and society, and it must develop in a framework where there are different groups with different interests that seek to achieve their objectives, which do not always coincide. Governance, in a general framework, includes those actions regarding what is done, when it is done and who decides what is done; or the definition of the terrain and the rules of the game (Clark, 1983). It is worth noting the significant differences between the governance of HEIs worldwide (Dill, 2023; Machado-Taylor and Matías, 2022).

Furthermore, it should be taken into account the major role of the HEIs in the digital transformation of society (Teixeira et al., 2021); the implementation of the Sustainable Development Goals (SDGs) (Llopis-Albert et al., 2022); the acquisition of Transversal Competences (CTs) by students (Llopis-Albert and Rubio, 2021); the development of quality assessment programs of the teaching activity of the higher education faculty staff (Llopis-Albert et al., 2023); and the design of study plans (Rubio et al., 2022).

In this sense, the Spanish universities are regulated by a common set of rules and regulations that give rise to a single model of public university. This results in a rigid system, not very flexible and with difficulties to respond to problems in an agile and effective way (Carrasco-Gonzalez, 2017).

In addition, the University as an entity must face structural problems such as revenue structure, control over expenses, limited control over academic aspects (for instance, years of the bachelor's degree programs), lack of control over the hiring of teaching and service personnel, little flexibility to reorient students towards the market where they can have greater job opportunities once they have finished their degree (Angoitia-Grijalba and Rahona-López, 2007).

Besides to the problem of which system of governance would be most effective, there is the fact that the leaders are not usually experts in the management of entities. The highest authority in the university is the rector, who is after all, a person who tries to do his best and, despite his training and record as a professor, usually lacks experience in the management of complex entities such as the university. He is also at the mercy of pressure from certain media groups (Martínez, 2012).

Since the 1990s, European systems have undergone major reforms and transformations, concerned about the contribution of universities to the development and economic growth of the country. New systems of evaluation and accreditation of teaching and research quality, renewed funding models and ambitious university policy instruments have been introduced (EU 2011; 2020; Stensaker, 2023).

In addition to the above considerations, in the last decade, universities have faced a rapid process of internationalization of knowledge, the irruption of new groundbreaking and avant-garde technologies and profound changes in training and professional requirements, teaching staff shortage, increasingly aging and with high levels of job insecurity (Soares et al., 2023).

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The rapid evolution of events has had an impact on the performance of universities, bringing to the surface the shortcomings and dysfunctions they present in addressing the new challenges of society. On the one hand, it is necessary to provide the university with the necessary instruments and bodies to fulfil its mission, establishing general rules of governance, representation, and participation in public universities, without forgetting aspects such as university autonomy and the development of the competencies of the State of the autonomies. On the other hand, it is necessary to reform the university system in order to respond to the challenges posed and overcome the deficiencies detected (Sengupta et al, 2022).

Among these deficiencies is the instability or precariousness of teachers' jobs (high level of temporary employment), who should be better remunerated and have the ability to be promoted. We should also mention the need for enhanced training in new technologies and the renewal of obsolete careers that are outdated by society.

The governance model and the instruments available to it now make perfect sense. The governance of Spanish universities is subject to a solid and formal administrative control, externalizing a limited organizational autonomy despite the constituted governing bodies and a strong dependence on political power (Prieto-Álvarez, 2015). Rectors are State officials belonging to the corps of professors, who generally suffer from a real leadership capacity in transcendental issues due to their lack of training in management and vision of the future. They mainly exercise a representative function to the detriment of executive or managerial functions.

## 2. Problems in governance

The most important governance issues are related to decision-making structures, procedures, and objectives, highlighting the form of leadership and the administrative structure (Clark, 1983; Brennan, 2010). The problems of university governance should be approached from two aspects: a) it should be determined what is the best system for making decisions, and b) we should analyse how decisions are made. Hierarchical decision-making has proven to be inefficient. One way to move forward is by demanding accountability for the decisions made and not so much in modifying the governing bodies that make them or the way they are elected (Kehm, 2012). It is also relevant the

analysis of how the university governance system should coexist with a model of autonomous regions with competences over universities (Pérez and Peiró, 1999).

Some issues that need to be addressed are the training offer; preparation of graduates; research activity; the teaching staff; reduction in bureaucratization; digital transformation; environmental policies; funding and resource allocation; the role of the university in society; the university and globalization.

Nowadays, matters as simple as including some subjects and dropping others in a curriculum become a titanic task (Rubio et al., 2022; Llopis-Albert and Rubio, 2021), full of bureaucracy, procedures, reports, and evaluations. Any change must be approved by an endless number of commissions involving many people (including departments, curriculum commission, centre board, teaching commission, governing council, board of governors, etc), and fight about everything and sometimes in an inappropriate or ineffective way. The invitation to a professor from another university to teach becomes a real odyssey. Or the substitution of a professor due to a sudden illness has the same fate. These are issues that are not addressed with the agility and efficiency that they should be.

Addressing these problems requires regulatory reform and procedural modifications. The development of the Spanish Organic Law 2/2023 of the University System (LOSU, 2023) may address most of these problems.

### 3. Trends in University Governance

With regards to the trends in the university governance the following could be highlighted:

- Tendency to decrease regulation, and to increase university autonomy and the process of control, evaluation and accountability to society and authorities.
- Tendency towards Governing Councils with an increasing presence of members from outside the University, chosen individually according to their social relevance, knowledge, and skills.

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- Strengthening of the power of the executive bodies: the rector and his management team, generally appointed by him. Greater autonomy, authority, and room for manoeuvre to meet the objectives set by the Governing Council.
- A growing trend towards the professionalization of university management tasks.
- Closely related to university governance is the issue of funding. There is a clear tendency to increasingly link a growing percentage of the basic public funds to the results they obtain.

The fact that the Governing Council includes members from outside the university also makes it easier to avoid falling into endogamy.

#### 4. University governance and management in Spain

The former Spanish Law of the University System (LOU, 2001) establishes a combination of three basic components in the levels of government and general management of universities: a) representation of the university community, whose supreme body is the University Senate; b) the Social Council, which articulates social participation in the University; and c) the Governing Council, which is the ordinary governing body.

The University Senate is the highest representative body of the university community, it draws up the statutes, elects the Rector, approves the general lines of action of the University, and determines, within the legal limits, its own composition (Docampo-Amoedo, 2023; Flórez-Parra et al., 2014; BOUPV, 2022; DOGV, 2011).

The Social Council is the body for the participation of society in the University. It is responsible for approving the budget, supervising the economic activities of the University and the performance of its services, promoting collaboration with society in the financing of the University and establishing the rules governing the permanence of students at the University. Also, the modification of the staff and the transformation of vacant positions, it proposes the creation and suppression of Faculties and University Institutes.

The Governing Council is the ordinary governing body of the University and, as such, is responsible for all tasks not expressly assigned to the Social Council and which correspond to the highest level: definition of objectives, priorities, design of services to be offered and organization of the University.

The Rector, the Vice-Rectors, the Secretary General and the Manager are established as unipersonal governing and management bodies of a general nature for the entire University:

- The Rector is the highest academic authority of the University. He/she represents the University, exercises its direction, and executes the resolutions of the University Senate, the Governing Council, and the Social Council.
- The Manager is responsible for the management of the administrative and economic services of the University.

In the organizational design of the university there are three types of structural units: Centers, Departments and Institutes. Each of these structural units has a collective management body (Department or Institute Council, Centre Board) and unipersonal management bodies (Heads, Directors, etc.).

Fitting all these pieces together is not easy and is producing some of the problems of governance that universities suffer from. The proper functioning of this structural design requires a whole series of coordination mechanisms.

#### 4.1 University Senate

In the LOSU (2023), article 45 defines the University Senate as the highest body of representation and participation of the university community. It is responsible for exercising the sovereign functions of internal regulations, overseeing the management of the University and making known their positions and aspirations in the various areas of university action.

In addition, it is assigned the following functions:

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- To draw up and propose the approval or modification of the University Statutes, as well as the regulations of centres and structures and other rules.
- To debate and make proposals on university policy to be submitted to the Governing Council.
- To draw up and modify its operating regulations.
- To elect the representatives of the Senate in other governing bodies of the University.
- To call, on an extraordinary basis, elections for Rector at the initiative of one third of its members, including at least 30 percent of the staff of the university teaching staff and Permanent Labor Professors and Lecturers.
- To exercise any other function established by the University's Statutes. The Statutes shall establish the duration of the term of office and the number of members of the Senate, with the Rector, who shall preside, the Secretary General and the Manager being ex officio members of this body.

## 4.2 Governing Council

The Governing Council is the highest governing body of the University. It will be presided over by the Rector and will include, in any case, a representation of Heads and Directors of the centres, students and administrative and service personnel, as well as the Vice Rectors, Secretary General and Manager. It has the most important functions in academic matters: agreement on teaching posts, creation, suppression or modification of Departments, approval of study plans, proposals to the Social Council on the creation of new centres or new degrees. In budgetary matters, it is responsible for submitting budget proposals to the Social Council, making most of the budget modifications, proposing public prices for its own degrees and administrative services, and making proposals to the Social Council. Some of the functions correspond to it are:

- To promote and approve the strategic plans proposed by the Governing Council.
- To establish the fundamental guidelines and procedures for all university policies.
- To propose to the Social Council for its approval the Pluriannual Financing Plan.



The Statutes shall establish the number of members of the Governing Council, with the Rector, who shall preside, the Secretary General and the Manager being *ex officio* members of this body. The composition shall ensure the representation of the structures that make up the university and of the teaching and research staff, the student body, the technical, management and administration and services staff, and the Social Council. The representatives of the staff and the student body shall be elected by the University Senate. The Statutes of each university shall establish the duration and the manner in which the representation of all the aforementioned sectors is materialized, ensuring a majority of the permanent doctoral teaching and research staff. A minimum of 10 percent of the Governing Council must be representatives of the student body and another minimum of 10 percent must be representatives of the technical, management and administration and services staff. In any case, one third of the members of the Governing Council shall be elected by the Rector.

### 4.3 Social Council

The Social Council in Spain is one of the university governing bodies with the most powers. The underlying idea is to achieve the integration of the university in its social environment. The Social Council responds to the vision of the university as a public service closely linked to the community in which it lives and which it has to serve. It supposes an opening of the traditional structures of the university to the community in which it is immersed. It is the responsibility of the autonomous communities to oversee the fulfilment of the public service assigned to the universities and to establish the method by which this is achieved, and the result is the creation of the Social Council. Its composition, its functions and its involvement in the university structures is subject to the conception of the university, and therefore, has great political significance.

The Social Council, as the LOSU states, is the organ of participation and representation of society in the university. It is a space for collaboration and accountability in which institutions, social organizations and the productive fabric interrelate with the university. Its composition should adequately reflect the plurality of the social environment in which it is located, with knowledge of the activity and dynamics of the university. It is composed in its 2/5 parts by a representation of the Governing Council and 3/5 parts by representatives of the groups of the university and social

community. Among the representatives of the Governing Board must be the Rector, the Secretary General and the Manager. The rest should be made up of a representative of the teaching and research staff, another of the technical, management and administration and services staff, elected by the Governing Council from among its members, and a student from the Student Council, elected by the Council itself, all of them with voice and vote.

The following essential functions correspond to the Social Council:

- To draw up, approve and evaluate a three-year plan of actions aimed primarily at fostering interrelationships and cooperation between the university, its alumni and its cultural, professional, scientific, business, social and territorial environment, as well as its institutional development. A joint session of the Social Council and the Governing Council of each university will be held annually in order to monitor the Plan and, if necessary, to establish the necessary modifications.
- To report, in advance, on the offer of official degrees and lifelong learning, as well as the creation and suppression of its own centers and centers abroad.
- To promote actions to facilitate the connection of the university with society and to strengthen the lifelong learning activities developed by the universities.

What is clear is that in recent years, legislators have tried to push the level of competence of the Social Council to the limit. Problems arise such as the risk of blockage by creating a parallel administration and the possibility that the action of the Social Council is not at the service of the university community but of those who want to control the university. Maintaining university autonomy is part of a complicated balance between:

- Certain economic and ideological powers interested in the activities of the university institution and tempted to put it at their exclusive service.
- The intervention of the direct actors (professors and non-teaching staff, each in their functions) and its users (students) inclined to confuse the objectives of the institution with the objectives of their corresponding group.

The reform proposal on the functions and governance of the university should correct the current situation and give more input to the representation of the public interest as a whole and without identifying it exclusively with political representatives, nor corporate (business, trade-union, cultural, etc.).

## 5. University reform in Spain: LOSU

The LOSU is intended to adapt the text to the Bologna Plan promoted from the European Commission (EU, 2020), while improving the current challenges in relation to university governance. For instance, in issues such as the digitalization of campuses and the reorganization of the teaching staff to be adequately addressed. In order to ensure an autonomous, democratic and participatory University, in which decision-making and management can be carried out effectively and efficiently, the law enshrines transparency and accountability of public universities, in correlation with the development and protection of their autonomy. The reforms of the law are based on the recognition of the distribution of powers between the State and the Autonomous Communities in matters of university policy and management.

The new university law that calls for improving faculty conditions, limiting inbreeding, achieving adequate funding, and introducing changes in university governance. It seeks to reduce the high temporary nature of the teaching staff resulting from the economic crisis of 2008. It simplifies the teaching career and introduces measures in favour of equality and against inbreeding, in order to create a stable, predictable academic career with decent working conditions. Some of the key points of the new law are as follows:

- Adequate funding: it sets a minimum investment of 1% of the GDP.
- Avoiding the precariousness of the teaching staff: the LOSU proposes to convert part time professors into permanent positions and to organize the academic career, which is simplified to three stages (access, stabilization, and promotion) and a limit of 10 years is imposed for the stabilization of positions. The threshold on temporary positions in universities will be lowered from the current 40% to 8%.

- Measures against endogamy: it is envisaged that each vacancy announcement will be published in the Official Journal of the Autonomous Community, and in a public database of teaching and research staff competitions of the Ministry of Universities so that all interested persons can apply for that vacancy.
- Promotion of equality: according to Article 65.1: "Reservations and preferences may be established in the hiring conditions so that, under equal conditions of suitability, persons of the sex less represented in the teaching body or category in question will have preference in being hired".
- A new teaching figure: the Distinguished Professor. Universities will be able to "hire teachers and researchers whose scientific, technological, humanistic or artistic excellence is internationally recognized".
- Changes in the election of the rector and governance: the requirement to be a professor is eliminated. In addition, they will have a single term of office, but it is extended to six years.
- Student strikes and representativeness: the right of students to carry out academic stoppages is included (strikes are for workers). The universities will have to develop the regulations that protect them, but they may not be held on dates set for the evaluation. It also establishes the representation that students will have in the different governing bodies. They will be at least 25% in the University Senate, 10% in the Governing Council and 25% in the faculty and department councils.
- Internationalization: the mobility of students (both to and from Spain), assistance professors and researchers, and administrative and service personnel will be promoted.
- Lifelong learning and micro-training create micro-credentials, micro-degrees or other short-term programs, and modular training allowing courses shorter than two-year modules.

According to the LOSU, university statutes must be modified to reflect the new composition of the governing bodies:

- University Senate: to fix the number of members and duration of the term of office. Ex officio members and a representation of all groups of the university community (51% teaching staff and a minimum of 25% student body) must be considered.

- Governing Council: the statutes should reflect the composition, respecting the ex officio members and ensuring a representation of all groups (a minimum of 10% of students, 10% of technical management and administration and services personnel).
- Social Council: it must be regulated by law of the Autonomous Community, respecting the indications of the LOSU.
- Student Council. This is a newly created student representation and coordination body whose composition and operation must be reflected in the new university's statutes.

Regarding the unipersonal positions, the LOSU establishes non-renewable, non-extendable six-year terms. Within two years, the LOSU requires universities to have basic equality and diversity units, a university ombudsman's office, and inspection services, as well as health services and psychological and pedagogical support and career guidance services. Also, within two years, must establish accountability mechanisms in their statutes, have a transparency portal and guarantee the right of access to information considered institutionally relevant. They must also ensure compliance with ethical principles, academic integrity, and anti-fraud guidelines.

However, despite the good intentions of the law, it was born with the burden of rejection by several actors (such as the university community and labour unions) due to the lack of consensus on its content and the threats it poses. According to critics, the LOSU:

- It was born without negotiation and consensus between all actors and does not meet the needs for a sustainable development of society.
- There is no commitment to funding: the objective of 1% of the GDP is a mere declaration of intentions. Then the financing is not in accordance with the EU, which is established around 1.5% of the Gross Domestic Product (GDP). For example, there should be a specific budget allocation for the regeneration of the staff.
- The common Spanish university system for the entire country will break down into 17, one for each autonomous community. Therefore, each one will present different and varied typologies of teaching staff, accreditations, fees, statutes, governance, etc.
- Deregulates important aspects and a period of adaptability is foreseen through government decrees and regulations.

- The common framework for the entire country will come to an end, whereby each university and autonomous community will decide on key issues such as governance, accreditations, or the development of certain labour teaching figures.
- The fact that a third of the members of the Governing Council are appointed by the rector supposes a democratic deficit.
- There is no clear, agile, and predictable academic career. It will take many years before they manage to get an official or permanent job position, which will make it difficult to urgently renew the faculty staff. There is also no professional career for the faculty staff.
- Tends to dismantle the faculty staff while promoting temporary recruitment. It maintains and encourages the pernicious parallel path between civil servants and temporary faculty staff that encourages duplication and slows down mobility. It will increase precariousness, discrimination, and inequalities between groups.
- It does not improve the remuneration system. There will be differences in remuneration between civil servants and temporary faculty staff.
- There is an evident risk that the accreditation for access to university teaching bodies (civil servants) can now be done through an agreement between the Spanish National Agency for Quality Assessment and Accreditation (ANECA) and the regional quality agencies. The absence of a common framework in accreditations and the existence of heterogeneous regional systems will generate evident problems of equity, mobility, homologation, lack of homogeneous criteria and unequal success rates.
- Improvements for the temporary faculty staff are practically non-existent. For part-time professors there is no economic improvement or clear proposals to end precariousness. There are also no measures to stabilize and give continuity to the current teaching figures of Substitute Professors or Visiting Professors in universities.
- The binding participation of the student body in the study plans, in the teaching guides and in their implementation is disproportionate.
- Universities will have to draw up new statutes in which each one will regulate by its own the functions, structures, composition, and percentages of representation of the collegiate bodies (Cloister, Governing Council, Social Council, Faculty or School Council, Department Council, etc.).

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- Shields the replacement rate of the faculty and administration staff that will hinder the renewal and rejuvenation of the workforce. It will prevent the percentages of civil servants and temporary workers (20%) from being reached in five years, which will seriously jeopardize the maintenance of the workforce with a temporary employment contract.

## 6. Discussion and conclusions

University governance is a major issue for the State, for society and for the actors involved. The new governance based on the idea of new public management is part of the European agenda with the aim of modernizing the university and integrating it into the heart of society as an economic and social engine in the transforming times in which we are living, and which require updating the concept of the university of the 21st century.

We have analysed the higher education governance in Spain, highlighting the challenges and threats, and providing critical insights that result in improved self-governance. At present, there is still a need to open a public debate to gain consensus of all actors involved on what type of university is desired and how to make it co-responsible with the society it should serve. The emerging trend is based on the concept of the democratic revitalization of public institutions that are too bureaucratized. Some emphasis is also placed on the professionalization of public management and on universities being more integrated into the heart of society. The design of university policies has increasingly shifted to supranational levels, which constitutes a new scenario in educational governance and includes international or supranational organizations. The reduction of bureaucratization and the autonomy of universities is leading to a scenario of competition between universities that will have an impact on improving their performance and the services they provide.

Measures such as these, which require the State to liberalize its control and increase institutional autonomy, call for greater accountability to society. And more institutional autonomy also requires professional management. The goal is to improve institutional functioning, and thereby improve the performance of the system as a whole. However, these new ideas are so novel that there is no feedback on the results, nor is there absolute certainty that they are the best measures to take in terms of university governance. Therefore, we are facing a complex scenario in which the structural reforms

of university governance, while admitting that they are necessary in the context of the 21st century, do not allow us to predict what consequences they will have, what effects they will produce and whether the objectives that have guided their transformation will be achieved.

**Author Contributions:** All authors have contributed equally.

**Funding:** This research received no external funding.

**Conflicts of Interest:** The authors declare no conflict of interest.

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