



**1** 2012

# Leadership and Governance in Higher Education

for Decision-makers and Administrators

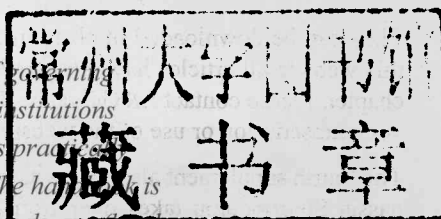
- ✓ **Autonomy and Accountability**  
*Margrit Seckelmann*
- ✓ **Ethics in Higher Education Institutions and their Governance - Key Issues**  
*Jürgen Kohler*
- ✓ **University Communications as One Contribution to Improve the World**  
*Asle Haukaas*
- ✓ **Training University Leaders and Managers - Why and How?**  
*Nadine Burquel*
- ✓ **Reforming the Finnish University System: Policies and Institutional Responses**  
*Elias Pekkola, Jussi Kivistö*
- ✓ **Governance of Higher Education in the Baltic Countries – Estonia, Latvia and Lithuania**  
*Mari Elken*



## Leadership and Governance in Higher Education Handbook for Decision-makers and Administrators

*Supplemental volume No. 01, 2012*

*This publication aims to provide leaders, members of governing bodies and senior administrators of higher education institutions with a user-friendly tool to support their work which is practice oriented as well as based on reflections of principle. The handbook is published as a basic edition and regular supplemental volumes (hard copy plus online).*



**Editors:**

*Sjur Bergan, Strasbourg*

*Eva Egron-Polak, Paris*

*Jürgen Kohler, Greifswald*

*Lewis Purser, Dublin*

**Coordination of the editorial process:**

*Athanassia Spyropoulou, Athens*

**Publisher:**

*Raabe Academic Publishers (Berlin)*



© 2012 Dr. Josef Raabe Verlags-GmbH, Berlin, Stuttgart

ISBN: 978-3-8183-9559-8

ISSN: 2191-5989

Project management: Dr. Roman Kabakov

Project assistance: Natalja Kreher

Cover illustration: [www.axeptdesign.de](http://www.axeptdesign.de)

All rights reserved. No part of this book may be reproduced in any form or by any electronic or mechanical means including information storage and retrieval systems – except in the case of brief quotations embodied in critical articles or reviews – without permission in written form from the publisher. To the best knowledge of the authors, editors and publisher, the information contained in this study is correct at the time of publication. However, they make no representation or warranties with respect to the accuracy or completeness of the contents of this work or the materials included with it, and specifically disclaim any implied warranties or merchantability or fitness for any particular purpose, and shall in no event be liable for any loss of profit or any other commercial damage, including but not limited to special, incidental, consequential, or other damages.

Trademarks: All brand names and product names used in this book are trademarks, registered trademarks or trade names of their respective holders, and are used for identification purposes only.

Dr. Josef Raabe Verlag  
Raabe academic publishers  
Kaiser-Friedrich-Straße 90  
10585 Berlin  
Germany

Phone: + 49 (0)30 21 29 87-0

Fax: + 49 (0)30 21 29 87-20

Email: [l&g@raabe.de](mailto:l&g@raabe.de)

Internet: [www.lg-handbook.info](http://www.lg-handbook.info)

# Editorial

Dear reader,

We are pleased to present the fourth supplemental volume of the Handbook on Leadership and Governance in Higher Education.

In this volume, Margrit Seckelmann discusses the delicate balance between autonomy and accountability, especially in light of the “new autonomy” that has been sought in the last decade. She refers to the German model to illustrate possible solutions and instruments to maintain that balance in a multi-level knowledge-based society.

Jürgen Kohler addresses the issue of ethical challenges that typically occur in higher education institutions regarding teaching, research, leadership and governance activities. Together with an overview of key features as well as the value of an ethical culture within an institution, the article also illustrates the extent of the risk implied by these challenges and suggests measures to prevent and remedy failure to uphold ethical standards.

Asle Haukaas' contribution advocates the need for a strategic approach to university communications and reputation (brand) building.

Nadine Burquel discusses the rationale for training university leaders and managers. She argues that European higher education institutions are operating in a highly competitive environment, requiring different institutional responses to “face the challenges”.

Elias Pekkola and Jussi Kivistö give an overview of the latest university reforms in Finland, placing them in the context of higher education policy changes that have occurred in the recent past. They discuss the influence of international higher education policies on Finland.

Finally, contributing to the section on different systems of higher education, Mari Elken provides a detailed description of higher education governance in the Baltic countries of Estonia, Latvia and Lithuania.

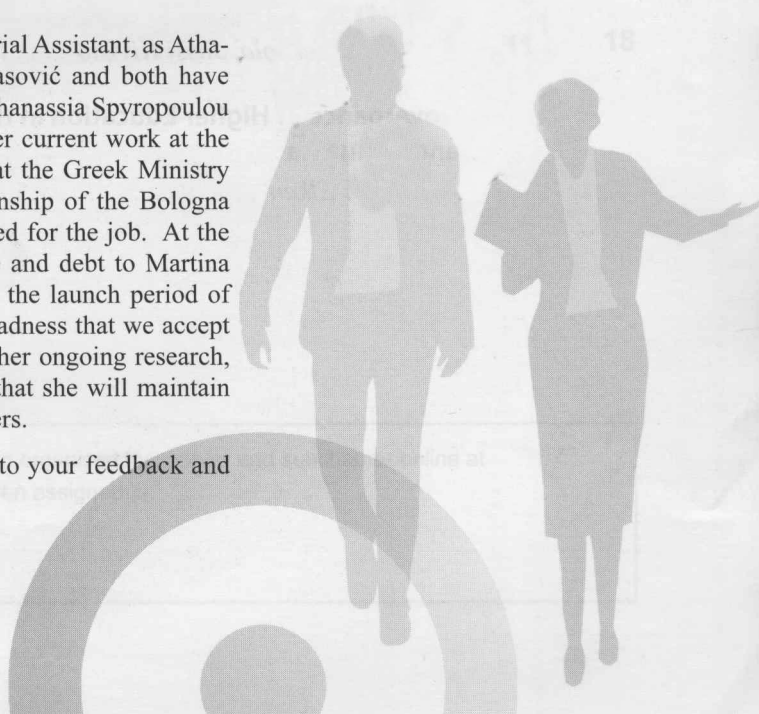
As well as being available in hard copy, all articles are also available to subscribers on the dedicated Handbook website:

<http://www.lg-handbook.info/>

They can be downloaded in electronic format. For your convenience, on this website all articles have already been organised by chapter and subchapter. Please contact L&G@raabe.de if you have any queries regarding your subscription or use of the website.

The fourth supplement also marks a change of Editorial Assistant, as Athanassia Spyropoulou takes over from Martina Vukasović and both have worked on this supplement. We warmly welcome Athanassia Spyropoulou to the handbook and we are convinced that both her current work at the University of the Peloponnese and her past work at the Greek Ministry of Education (not least during the Greek Chairmanship of the Bologna Process in spring 2003) make her very well qualified for the job. At the same time, we would like to express our gratitude and debt to Martina Vukasović for the outstanding job she has done in the launch period of this Handbook. It is with understanding but some sadness that we accept her decision to concentrate even more strongly on her ongoing research, especially on her dissertation, and we are pleased that she will maintain close links with the Handbook and the issues it covers.

We hope you enjoy this volume and look forward to your feedback and comments.





# Table of Contents

## Autonomy and Accountability

<i>Margrit Seckelmann</i> .....	1
---------------------------------	---

## Ethics in Higher Education Institutions and their Governance - Key Issues

<i>Jürgen Kohler</i> .....	25
----------------------------	----

## University Communications as One Contribution to Improve the World

<i>Asle Haukaas</i> .....	45
---------------------------	----

## Training University Leaders and Managers - Why and How?

<i>Nadine Burquel</i> .....	71
-----------------------------	----

## Reforming the Finnish University System: Policies and Institutional Responses

<i>Elias Pekkola, Jussi Kivistö</i> .....	87
---	----

## Governance of Higher Education in the Baltic Countries - Estonia, Latvia and Lithuania

<i>Mari Elken</i> .....	107
-------------------------	-----

# Autonomy and Accountability



Margrit Seckelmann

Institutions of higher education and research contribute to society by generating new ideas, furthering not only research but societal and economic progress as well. To enhance the quality of research results, scholarship has traditionally been based on freedom of teaching and research – in many countries this is guaranteed by the constitution. In the classical model of research, developed since the 17th century, publishing is the functional precondition for certifying and validating scientific claims. However, for at least a decade now, a “new autonomy” of the university is being sought. The concept of the “unchained university” (Müller-Böling 2000) is one that demands exoneration from state control as well as from corporate regulation. In the course of this paper, different concepts of the autonomy and accountability of science and its participants will be analyzed.

Content	Page
<b>1. Introduction</b>	<b>2</b>
<b>2. The key concepts: public responsibility, autonomy and accountability</b>	<b>3</b>
2.1 On the concepts of public responsibility and accountability	5
2.2 The origin of the European university: a history of autonomy?	7
2.3 The nature of science and its implications for autonomy and accountability	8
<b>3. New forms of autonomy in higher education</b>	<b>11</b>
3.1 New Public Management and the concept of the “deregulated university”	11
3.2 Sub-components of the “new” autonomy of universities	11
3.2.1 Evaluation and Transparency	13
3.2.2 Boards of trustees	15
<b>4. Rationale</b>	<b>18</b>

For your convenience, all articles have already been organised by chapter and subchapter online at [www.lg-handbook.info](http://www.lg-handbook.info). This article, A 4-2, has been assigned to:

Chapter	A: Contexts and Concepts
Subchapter	4: Autonomy and Accountability

## 1. Introduction

Over the course of this article we aim to locate the “delicate balance” (Mackie/Martin/Thomson 1995) between the concepts of ‘autonomy’ and ‘accountability’ and, using the German model as an example, seek possible solutions and instruments to maintain that balance in a multi-level knowledge-based society. We will begin by introducing the key concepts – public responsibility, autonomy and accountability – and by exploring the genesis of the European university, examining the public nature of science as a precondition of financing by the state and looking at typical ways of ensuring the accountability of research. Next, the article will further analyze new concepts and forms of autonomy in higher education, such as ‘New Public Management’ and the concept of the ‘deregulated university’, before considering instruments for ensuring transparency throughout the whole evaluation process and establishing effective boards of trustees. Finally, a rationale shall be drawn: the hypothesis underlying this article is that bridging the concepts of ‘autonomy’ and ‘accountability’ is an issue of strategic leadership and demands a qualitatively high institutional governance that ensures as much scientific autonomy as possible. This is achieved by taking into account the customary mechanisms of inner control by the community without giving up the normative demand for the production of excellent research.

The German model might be of interest in that, despite the “innovation brackets” of German federalism (Scharpf 1999), it has been “increasingly” modernized (Scott 2011, p. 2) over a relatively short period of time. According to Dagmar Simon, Andreas Knie and Stefan Hornbostel (2010, p. 9), “after a long period of stagnation” German “academic research and teaching underwent a turbulent process of reorganization”. While “neither the demands for more competition, transparent accounting, governance reforms and reforms of the salary system” nor “the chronic under-financing of the system” were completely new to the German research system, new circumstances did arise. These were “the shift of competences and influence within the universities, between universities and the governmental department of the German *Länder* and between these and the federation as well as between the national state and supra-national influences” (*ibid.*). These authors go on to describe another novelty in the German system that “evolved out of the increasing competition that allowed the research system to become ‘undifferentiated’ (*Ent-differenzierung*)”. This made “the traditional demarcation lines between institutions, departments, disciplines, and applied and fundamental research become brittle”. It also caused the emergence of “re-differentiation” (*Re-Differenzierungen*), which is based on “reputation, excellence of research, international networking etc.; destroying illusions of equity at the same time as evoking fears of monopolies and cartels” (*ibid.*). One colourful example of this is the German ‘excellence initiative’ (*Exzellenzinitiative*) with its two phases from 2005 – 2012 and 2011/12 – 2017 (for further details see section 2.1 and Leibfried 2010, Münch 2007).



## 2. The key concepts: public responsibility, autonomy and accountability

The governance of higher education and research in Europe is currently the subject of many reform initiatives. Most of them relate to a new understanding of the public responsibility *of* and *for* higher education and research.

### Three categories of public responsibility for higher education

The aim expressed in the Bologna Declaration from 1999 is to create a *European Higher Education Area* by 2010, in which students could choose from a wide and transparent range of high quality courses and benefit from smooth recognition procedures (European Commission 2011b). It was later opened up to any other country that is a signatory to the European Cultural Convention of the Council of Europe. Further inter-governmental meetings on the process were held in Prague (2001), Berlin (2003), Bergen (2005), London (2007), Leuven/Louvain-la-Neuve (2009), Budapest and Vienna (2010). The Bologna Declaration of June 1999 has put in motion a series of reforms needed to make European higher education more compatible and comparable as well as more competitive and more attractive for students and scholars from both Europe and abroad (European Commission 2011b).

During the meetings of the ministers for higher education in Prague and Berlin, they reiterated their aim to “enhance the attractiveness and competitiveness of higher education institutions in Europe”, supported the idea that “higher education should be considered a public good and is and will remain a public responsibility” and confirmed the notion that “students are full members of the higher education community” (Prague Communiqué 2001). In Berlin, the ministers reaffirmed these views and also stated that the “need to increase competitiveness must be balanced with the objective of improving the social characteristics of the European Higher Education Area, aiming at strengthening social cohesion and reducing social and gender inequalities both at national and at European level” (Berlin Communiqué 2003).

In order to develop a more nuanced understanding of what public responsibility for Higher Education means in this context, as well as in modern, complex, societies overall, the member states of the Council of Europe agreed upon a specific concept in 2007. The *Recommendation Rec (2007)6 on the Public Responsibility for Higher Education and Research* stated that public responsibility for these policy areas can be divided into three categories:

1. *exclusive responsibility* for the framework within which higher education and research is conducted,
2. *leading responsibility* for ensuring all citizens have effective equal opportunities to higher education as well as ensuring that basic research remains a public good,



### The Bologna Process and public responsibility for higher education

3. *substantial responsibility* for a sustainable financing of higher education and research and for higher education provision, and for stimulating and facilitating financing and provision by other sources within the framework developed by public authorities (Council of Europe 2007).

The origins of the Recommendation of 2007 can be traced to a conference of the Steering Committee on Higher Education and Research of the Council of Europe, held in September 2004. The scope of this recommendation was, according to its Explanatory Memorandum, to define public responsibility of public authorities “not primarily *of* but *for* higher education and research”, which can be exercised in different ways and at different levels.

In the course of this article, the understanding of the terms ‘public responsibility’ and ‘accountability’ shall be outlined and the resulting consequences for the autonomy of individual and collective participants in the *European Higher Education Area* will be discussed – as well as in the *European Research Area* (ERA), with its intertwined research programmes and mobile researchers. The ERA came out of the Lisbon Strategy of the European Union, which was an action and development plan for the economy of the European Union between 2000 and 2010. The strategy, which was set out by the European Council in Lisbon in 2000, aimed at making the EU “the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion” by 2010. However, it must be noted that the relationship between the *European Higher Education Area* and the *European Research Area* is highly controversial; while the first aims at the further harmonization of degrees, the second has the potential to lead to some stratification with its strong emphasis on “competitiveness” (regarding the European vis-à-vis the US-American and the Asian universities and research institutes, see Teichler 2010, p. 65). Nonetheless, during the last decade, the themes and concepts of Bologna as well as the Lisbon Process have increasingly converged. This is especially applicable to the discussion about “employability”, an aspect in both processes that is debated upon regarding the qualification of doctoral fellows (Teichler 2010, p. 66). Still, some heavily debated topics remain unsolved: one of them is whether the “modern university shall be guided by utility considerations” or by “the autonomy of universities” (Teichler 2010, p. 66 with regard to Council of Europe 2003 in the latter citation).

## 2.1 On the concepts of public responsibility and accountability

The changes that the European higher education systems have undergone in recent decades form the background of the Recommendation Rec (2007)6 on the Public Responsibility for Higher Education and Research. These changes are characterized by a diversification not only of students but also of higher education institutions and higher education provisions (see Explanatory Memorandum to Rec [2007]6). While more secondary school graduates are now attending an institution of tertiary education, they attend not only the “classical” university but also “other kinds of higher education institutions, most of them with a specific mission in preparing learners for the labour market” (Explanatory Memorandum to Rec [2007]6). Also, new providers of tertiary education have emerged, including a large number of private institutions. At this point, the question arises, whether the concept of a “new” understanding of public responsibility “for” higher education and research demands that the states guarantee at least a basic financing of certain (namely state) universities. This would be a means of providing younger citizens with equal access to a good education (as is seen in Art. 12 of the German constitution for example) as well as financing autonomous research institutions (namely within the universities, as Art. 5 section 3 of the German constitution states – this point will be elaborated upon below).

However, not only the higher education system has undergone enormous change. “The New Production of Knowledge” (Gibbons et al. 1994) defines an evolving milieu for science and research in contemporary societies. The central aspect of this change is the new context of science production: formerly (i) the research institutions and researchers were separate from their societal environment, with (ii) science production concentrated in universities, (iii) research organization modelled after the different disciplines and (iv) the ‘results’ of research evaluated by the peers (“*Mode 1 of Science Production*”, see Gibbons et al. 1994, p. 2, 17 – 18, 31 – 32.). Nowadays research knowledge is (under the auspices of the “*Mode 2 of Science Production*”) generated in the course of its application (Gibbons et al. 1994, p. 3; Nowotny et al 2004, p. 9). If one follows this new model of production, then the “differentiation between invention and application cannot be maintained” (Braun-Thürmann 2010, p. 79). With the “contextualization of science” comes a multiplication of the collaborating institutions, which now includes (beyond academic research) industrial laboratories, advisory services, governmental agencies, groups of stakeholders etc. (Braun-Thürmann 2010, p. 79). Gibbons et al. (1994, p. 6) thus highlight the point of ‘organizational diversity’. However, if elements from beyond academia are integrated into the production of knowledge, fields of research develop that cannot be “readily classified into the matrix of disciplines” (Braun-Thürmann 2010, p. 79). The concept of “post normal” science (Funtowicz/Ravetz 1993) has

### New modes of research

### The Excellence Initiative in Germany

therefore emerged. The relatively new idea of “societal robust” knowledge captures the outcome of a process in which the interests of laymen and stakeholders are integrated into the research as well as modes of knowledge production (Nowotny et al. 2004, p. 167).

Another aspect is the fine line between accountability and bureaucratization: institutional autonomy, and no less academic freedom, may be unduly jeopardized by an ‘overdose’ of accountability. Institutions of higher education and research and the state as well as society are bound together by a public responsibility not only for the financing but also for the existence of a free and autonomous teaching and research environment. For instance, one possible danger of the Lisbon agenda with its strong emphasis on enhancing the “competitiveness” of universities is that it could increase the stratification between universities, partly through government actions, as the German example of the *Excellence Initiative* (*Exzellenzinitiative*) illustrates. The *Excellence Initiative* aims “to promote top-level research and to improve the quality of German universities and research institutions in general, thus making Germany a more attractive research location, making it more internationally competitive and focusing attention on the outstanding achievements of Germany universities and the German scientific community” (German Science Foundation 2011). One of the initiative’s tools is the funding of “institutional strategies that are aimed at developing top-level university research in Germany and increasing its competitiveness at an international level”. They do so by covering “all measures that allow universities to develop and expand their areas of international excellence over the long term and to establish themselves as leading institutions in international competition” (German Science Foundation 2011). According to the German Science Foundation (2011) the aforementioned tool “will make a significant contribution to strengthening science and research in Germany in the long term and increasing the visibility of current research excellence”. Over the course of the first term of the *Excellence Initiative*, nine “institutional strategies” were selected – with those universities subsequently calling themselves “excellence universities”.

Observers of the changes that the German research system underwent during the initiative note that the *Excellence Initiative* “played the role of the Trojan horse within the reform politics of the system of higher education, which brought a surprising turnaround in the course of a campaign that was perceived as nearly lost” (Schreiterer 2010a, p. 106). However, fears are expressed that a stratification into “normal operations” and “islands of excellence” will take place, in which the “islands” will be awarded with more institutional freedom and funding, while the “normal operations” will be overloaded with work and have to struggle with scarce resources (Schreiterer 2010a, p. 107, see also Münch 2007). The original idea of the Excellence Initiative was the other way round: “excellent” parts of the universities should “radiate into the normal operations and stimulate them” (Schreiterer 2010a, p. 107). Although it is too early to draw any final conclusions, one can already observe that



within the “excellent” universities the expectations concerning the performance and the pressure on the departments, programs and faculties have increased (Schreiterer 2010a, p. 108). Also, one notices a certain decline in the level of teaching when only “excellent research” is rewarded (Schreiterer 2010a, p. 108). To cope with this unintended side-effect, a competition for the most “excellent teaching” was created by the Standing Conference of the Ministers of Education and Cultural Affairs of the Länder in the Federal Republic of Germany (*Kultusministerkonferenz*) and a powerful private sponsor, the *Stifterverband für die Deutsche Wissenschaft* (see: <http://www.exzellente-lehre.de>). In the course of this contest, four universities of applied sciences and six universities were awarded for their strategic concepts by which they aim to enhance their visibility and attractiveness as a place of higher education.

## 2.2 The origin of the European university: a history of autonomy?

The history of the European university<sup>1</sup> can be read as a history of different forms of autonomy and regulation (Stichweh 1991; Stichweh 2009, p. 39). In the late medieval context, which marked the emergence of the European universities (ca. 1200 – 1500), the church and the religious orders formed the social environment of the universities. The instrument of the “*Authentica Habita*” of 1158 guaranteed the scholars from abroad that resided in Bologna collective rights as a professional group. Thereafter, this professional group of individuals needed an organization, which it found in the “*universitas scholarium*”, complete with its own jurisdiction (Roellecke 1996, p. 6). In Paris and Oxford, though, the scholars were put under Church control, which was implemented by the chancellor (Roellecke 1996, p. 8). During this period, the universities struggled for freedom from Church control and, from the 16<sup>th</sup> century (the Era of the Reformation) onwards, universities were increasingly bound to the territorial state. The state established institutions of higher education and training for civil servants. Thus, in this period the universities mainly sought freedom from regulation by the sovereign. Freedom of research finds its roots in the *libertas philosophandi* (Trute 1994, p. 17). This right ensures the freedom of the individual researcher to conduct his or her research without pressure by the state or the church. In the university foundations of the 18<sup>th</sup> century (e. g. Halle and Göttingen) and Humboldt’s reforms of the academic system in Prussia in the early 19<sup>th</sup> century, the *libertas philosophandi* developed from a *libertas conscientiae* to a right to conduct research and to teach autonomously, i. e. without an obligation to or limitations by the sovereign (Trute 1994, p. 17).

**History of European university through history of autonomy and regulation**

<sup>1</sup> This article will further concentrate on the role of the universities as institutions of higher education.



## Freedom to teach and freedom to research – new understanding?

While the freedom to teach remained almost the same in the 19<sup>th</sup> century and shaped our understanding of today's freedom to teach (e. g. in Art. 5 section 3 of the German constitution), the modes and conditions of research underwent enormous changes in not only the 19<sup>th</sup> but also the 20<sup>th</sup> century. We have already dealt with the change of knowledge production from "Mode 1" to "Mode 2", which explains the transformations in the relationship between the research institutions (universities and state funded research institutes) and their respective environments. As well as that, the process of knowledge production within the aforementioned research institutions underwent an enormous change: instead of the classical funding of institutions, the "project-shape" of research has become (almost) the "normal" form of funding (Torka 2006 and 2009; Besio 2009). Since modern research methodology allows research processes to be divided into specific phases (for instance in medicine and natural sciences) there is enhanced scope for applying a 'schedule type' approach to research, which runs the risk of stifling steps into the unknown and therefore true innovation (see e. g. Braun-Thürmann 2010, p. 77).

## 2.3 The nature of science and its implications for autonomy and accountability

### Higher education and research as public goods

The German constitution puts the relationship between autonomy and accountability quite clearly: Art and science, research and teaching are free, but have to remain within the limits of the constitution (Art. 5 section 3 of the German constitution). The jurisdiction of the German constitutional court (decision of the German constitutional court of May, 29<sup>th</sup>, 1973, printed in the official volume of its decisions, BVerfGE 35, p. 79) understands the academic freedom guaranteed in Art. 5 section 3 of the German constitution in a threefold way. It recognises (i) a *classic liberal right* guaranteeing the individual researcher's position to conduct his or her research autonomously, (ii) the *determination of a "cultural state"* to guarantee the free conduct of research and (iii) an organizational principle, which guarantees the *individual researcher* as well as *institutions of research* that such measures, "which are indispensable for a free conduction of research" (see also the decision of the German constitutional court of October, 26<sup>th</sup>, 2004, printed in the official volume of its decisions, BVerfGE 111, p. 333, 353; Seckelmann 2010a, p. 237) will be taken. The latter decision dealt initially with the legality of the university law of Lower Saxony, which normalized the constitutions of universities in a new way and subsequently had several of its points overruled by the German constitutional court.

The decisions of the German constitutional court have had had serious consequences: (i) given that the *libertas philosophandi* and the *libertas docendi* do not in themselves guarantee financing by the state, the court had to deal with the question of whether the state is obliged to

guarantee the free nature of research through appropriate financing for university teachers (at least for its own employees). The German constitutional court agreed with the following assumption: it held that not only the individual professor (*academic freedom of the individual*), but also the research institutions (*institutional autonomy of the university*) must be granted a certain sum that allows both parties to carry out research and teaching autonomously (i. e. without being obliged to seek funding from others in the free market, see again BVerfGE 35, p. 79).

The reason for this can be seen in the aforementioned second guideline of the decision of the German constitutional court, that Article 5 Section 3 of the German constitution contains a *determination of a "cultural state"* to guarantee the free conduct of research. This originates in the continental European tradition that holds research and education to be public goods (Flämig 1982; Nowotny et al. 2005). In the German academic tradition, the state is therefore charged with the establishment and financing of institutions of higher education or at the very least to set up a structure that facilitates freedom of research and teaching (BVerfGE 35, p. 79).

However, the guarantee of autonomy does not cover only the aspect of financing. As mentioned above, the decision of BVerfGE 35, p. 79 also touched upon the aspect of *organizational autonomy*: each faculty member has to have the possibility to engage him- or herself within the organs of the university (such as the senate). Moreover, issues "relevant for research" (related to teaching, research or the appointment of the faculty) have to be decided by organs in which the professors hold the majority (BVerfGE 35, p. 79). Nevertheless, the German law is open to innovations concerning university organization (for instance the strengthening of the dean or the establishment of boards of trusteeship) as long as those innovations do not endanger the individual freedom of the researcher (BVerfGE 111, p. 333, 356 – 357).

A most recent decision of the German constitutional court (of February 14<sup>th</sup>, 2012) moreover held that the legislator is obliged to pay a professor a salary that is consistent with their position and, thus, higher than an "ordinary" schoolteachers' one (Bundesverfassungsgericht [2012]).

The autonomy of science is not only a "freedom from" state intervention but also a "freedom to" (Mackie/Martin/Thomson 1995, p. 65) carry out independent research. Nonetheless, 'independence' can be understood in different ways: one understanding would be the German one – independence means being *independent from the economy*. This leads to the conclusion that the state is obliged to finance universities as well as university teachers at least to the extent that they are not obliged to *live* from outside funding (leaving aside the possibility to conduct research, which is financed by third-party funding). Another understanding of the term independence could be *not to be obliged to a*

**"Freedom from" as well as "freedom to"**

Freedom to teach and  
freedom to research –  
new understanding?

*'major' financier* (be it the state or any another party) but to be able to act autonomously based on one's own income (by one's assets and by students' payments) – the American model follows this principal. The USA has "no tradition concerning federal regulation of financing, and that fact shows up also in the field of research and higher education funding, the latter is only particularly funded by the state". Therefore the politics of higher education and research "follow completely different rules of the game than in France, Japan, or Germany" (Schreiterer 2010b, p. 485). A third model would be the British one. As in the US, 'autonomy' is understood as being independent from one major financier. As a consequence, this model contains more independence vis-à-vis state regulation. On the other hand, within this system institutions of research and higher education are enormously dependent on performance audits and evaluations on which basis the 'financiers' (such as the Higher Education Funding Councils and the Research Councils) calculate their payments (e. g. following the results of the Research Assessment exercise). The United Kingdom thus is an example of a system that has been modernized following the US examples of (mostly) privately financed universities and market competition, which has more recently been introduced in the German case (see Candemir/Meyer, p. 509). So one can conclude that the role of the universities was more or less "suddenly transformed from the one of public institutions subsidized by the state into that of private suppliers of specific services – i. e. teaching and research" (Geuna 1997, p. 145).

**Claim to autonomy is  
based on a privileged  
relationship of science  
to truth**

In the classical model of science, developed since the 17<sup>th</sup> century, the public sphere of science is closely connected to certain functional mechanisms as a precondition for the certification and validation of claims of scientific truth and for attributing credit for these claims (Trute 2005, p. 54; Nowotny 2005; Pestre 2005; Weingart 2001). The quest for truth is the central issue of science, and reputation is the reward. Thus, the claim to autonomy is based on a privileged relationship of science to truth, which is approximated through the procedures and practices used by scientists (Nowotny 2005, p. 9). Publishing is the functional precondition for certifying and validating claims of scientific truth (Trute 2005, p. 53). Scientific autonomy is granted on the basis of the service performed for society, which assumes collective responsibility for producing reliable scientific knowledge (Nowotny 2005, p. 9).

The public nature of science demands provisions be made for the open access to scientific outcomes (see Nowotny 2005), which are usually documented in scientific publications. Those publications (and conferences) are the major science driven means by which science relates to the common good. However, while the outcomes have to be commonly accessible, the research itself has to be autonomous.



### 3. New forms of autonomy in higher education

#### 3.1 New Public Management and the concept of the “deregulated university”

For at least a decade, a “new autonomy” (De Boer/Enders/Schimank 2007; Smeddinck 2007, p. 269) has been sought by universities. The concept of the “unchained university” (Müller-Böling 2000; Smeddinck 2007, p. 229) advocates “exoneration” from state as well as corporate regulation (Smeddinck 2007, p. 229; in a critical perspective: Ladeur 2000). To use Germany as an example, according to this perspective the so-called “Janus-faced” character of universities as autonomous corporations on one side and as parts of the state administration on another (Flämig 1982; Smeddinck 2007, p. 278) should be abandoned in favour of deregulated universities. The universities should become even more autonomous and get the right to self-government – not only regarding educational curriculum but also in their staffing policy and their budget. The “New Public Management” (e. g. Smeddinck 2007, p. 272; Sieweke 2010) captures and elaborates on this new understanding of the relationship between the state and universities. An overall trend in Europe is the shift to “steering at a distance” (Kickert 1995; Vidovich 2002). The state withdraws its direct steering instruments (direct hierarchical steering by strict budgetary rules) in favour of “softer” instruments such as ‘management by objectives’. Universities are transformed into ‘fully autonomous’ or ‘semi-autonomous’ institutions. However, this gain in autonomy vis-à-vis administration is “balanced” by the integration of stakeholders into the university by establishing boards of trustees (Smeddinck 2007; Sieweke 2010). The new competences of the deans and/or presidents of universities require a more professional management of universities (Scott 2011); the deregulation of the universities, which freed them from direct state control in favour of “softer” forms of control, requires new forms and instruments of accountability (e. g. Knie/Simon 2008).

#### New Public Management and the concept of the “deregulated university”

#### 3.2 Sub-components of the “new” autonomy of universities

The “new” or enhanced autonomy of universities contains at least four sub-components (see Berka 2002):

- organizational autonomy,
- curricular autonomy,
- the right to employ the academic as well as the non-academic staff autonomously,
- budgetary autonomy.

#### Sub-components of the “new” autonomy of universities



### **“New” autonomy and the innovative potential of universities**

While ‘organizational autonomy’ captures the competence to govern the internal organization (only overseen by a judicial control and not by a material supervisory control), ‘curricular autonomy’ means the competence to set up new study paths and to make or change the regulations governing the award of a doctorate by a university’s panels. The right to employ the staff autonomously comprises not only the employment of administrative and technical personnel but also the free conducting of the appointment negotiations with the academic staff. ‘Budgetary autonomy’ includes the command of the budget of the university and additionally – a matter still under discussion in most of the German *Länder* – the right to raise money through issuing bonds and have the physical assets of the university at its own disposal.

The granting of autonomy to universities in these new fields of organizational, curricular, employer and budgetary autonomy should, according to the claims of the New Public Management, increase effectiveness and efficiency (Berka 2002, p. 74). The background to the granting of ‘enhanced’ autonomy is the belief that autonomous structures of decision-making are a means of empowering the innovative potential of the universities and an instrument for increasing the quality of the fulfilment of university tasks (i. e. research and research-based teaching, see Berka 2002, p. 74). Simply put – innovative structures induce innovative ideas (Göring 2003).

### **“New” autonomy and safeguarding societal interests**

But the new autonomy of universities requires new ways of safeguarding the manifold societal interests and reconciling these interests when they conflict. To return again to Germany for an example of conflicting interests, the fundamental rights of the students to receive good education at the universities (guaranteed e. g. by section 12 subsection 1 of the German constitution) can conflict with the scientific autonomy of the provider of the teaching (guaranteed by article 5 section 3 of the German constitution). As research is a public good that should be ensured by the state, the development of students (seen as essential for a state’s future) could also be regarded as a public good. Therefore, an ‘ensuring state’ (a specific German legal principle, see Schuppert 2003) has to find forms and procedures to adjust both the freedom of research and teaching on one side and the right of the students to obtain a good education on the other.

A possible means to ensure the balancing of these two fundamental rights, which are drifting apart, are new specific instruments for assessing the quality of teaching as well as for giving responsibility to the public for the financing of higher education institutions.