

# Letter: Central nodes in the reform of the Spanish *Universities Law*

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## Abstract

The recent presentation of the definitive Bill for the Organic Law of the Spanish University System was preceded by a long process of consultation and negotiation with the university community, and its starting point can be found in a qualitative study carried out by the authors of this letter. That research work aimed to reveal the positions of the different sectors involved in the universities in terms of the three nodes which had been defined by the *Ministry for Universities* as strategic: finance, governance, and professional advancement. This letter aims to compare these positions with the definitive articles of the Bill, in addition to situating the final governance design within the European regulatory framework. It highlights the uniqueness of the Spanish model in a context of reform that is strongly influenced by the ideals of New Public Management.

## Keywords

University; Higher education; University governance; University reform; Higher Education Legislation; *Organic Law of the Spanish University System*; Spain.

## 1. Introduction

On 9 May 2022, the Spanish *Ministry for Universities* presented the definitive Bill for the *Organic Law of the University System* (*LOSU* in Spanish). Its approval by the Council of Ministers will begin the process for it to be passed by *Parliament*. The bill marks the end of a cycle of lengthy negotiations, and it is preceded by two draft bills prepared under the aegis of Manuel Castells. As a result, progress is being made in meeting one of the demands of the European authorities, who have been proactive in promoting the reform of the regulatory framework for Higher Education (HE).

To rise to this challenge, as a starting point for a broad consultation process with the actors involved, the *Ministry* commissioned a team made up of the signatories of this letter to design a study which would map out the central nodes of the reform of the *Spanish Universities Law*. This research work was supported by semi-structured interviews and discussion groups carried out between January and March 2020, and collected information from 32 people that represent the exis-

ting positions and discourses in the university ecosystem. Specifically, with gender parity, we worked with internal management profiles (senior university managers and rectors) and external management profiles (senior civil servants in the *Ministry*), with organized and ad hoc student groups, and with tenured and untenured teaching and research staff. The organizational and trade union perspective was also incorporated, and we were careful to have representatives from the four Spanish national regions and the international perspective.

“The reform of the form of government and election, and the opening to the management and external direction of the universities have been the key to reforms in Europe for 20 years, adapting the university regulatory framework to the precepts of efficiency and effectiveness of New Public Management”

During the study, positions were found to cluster around 4 thematic blocks, defined by the *Ministry for Universities* as the central axes of the reform:

- governance and university structure;
- financing;
- research and transfer; and
- teaching and students.

The objective of this letter is to analyze how the current bill has responded to the positions found in this study, as well as to situate the bill within the framework of European reforms. Due to limitations of space, we will focus on the first three nodes. Firstly, we will identify some of the central positions of the various actors around each analytical axis. Subsequently, we will explain the way in which these ideas are reflected in the bill. We will end by framing the legislative text within the literature on governance, as this is the central element on which most reforms in Europe have been based. This letter does not aim to cover all the aspects addressed in the research we carried out or those defined in the regulatory framework. The parliamentary process that is beginning, surely, will be able to broaden the debate and shed light on the positions that we address in this rapprochement.

## 2. Elements of consensus and plurality of views

Despite the wide diversity of opinions, a series of unanimous aspects emerged in the research:

- the need to carry out a regulatory reform that would shield the financing;
- the defence of public education and its value in society;
- a professional commitment that aims to reinforce the importance of universities as a public service to meet the immediate, strategic needs of changing times; and
- a demand for recognition which admits transparency, but is keen to overcome tendencies towards an audit system based on mistrust.

However, one of the elements that stood out in the research was the varying importance placed on the different topics depending on the position of the participants. Specifically, with the exception of the senior civil servants in the *Ministry*, there were few interventions that showed a clear, interconnected view of all the nodes raised. In general terms, among senior university managers, the interest was in finance, governance and, to a lesser extent, research and teaching. However, while the tenured Teaching and Research Staff (PDI in Spanish) focused their concerns on bureaucratization and academic promotion, the untenured staff focused on job insecurity and the difficulty of getting stable work. Nevertheless, all the PDI thought that a commitment to quality teaching and research with decent conditions was central. This point of view also cites financial backing as a condition for the success of any university reform.

Based on the main nodes, we detail the way in which the actors positioned themselves throughout the study, contrasting this with the Bill itself.

## 3. Stability, career and professional function

“Unstable, precarious, exhausting... and it goes on being exhausting.”

This is how one informant described her academic career. All the participants underline that the road to stability has always been “long and hard” (this was said by several interviewees who currently occupy high positions: “I was not born a professor”, one rector told us), but in the study one differentiating factor emerged: there were no guarantees that this journey would end in a stable job. One lecturer, about to try for an internal promotion, did not know where she would be the following month: “you live in constant uncertainty”.

“I applied for this promotion and maybe by August I’ll be out of a job. You prepare your lectures and maybe next year you will no longer be at this university. This uncertainty is psychologically exhausting. At my age, 36, I have life projects that are not work-related, but I have to keep postponing them... It is tiring, it is constant, there is no let-up, but you continue because you are tenacious.” [Lecturer]

This element is linked to lack of tenure and to the figure of the Associate Lecturer, originally designed to attract experienced professionals, but used to hire staff on precarious contracts, as research is not included. In 2021, of the more

than 25,000 Associate Lecturer contracts, 46% had doctorates and 45% had been in the post for more than 6 years. Agreeing with the other participants, the *Ministry* defined the origin and consequences of this situation.

“A lack of funding in the Spanish university system has meant that teaching staff have been used in truly unacceptable ways.” [Senior civil servant in the *Ministry*]

“As a starting point for a broad consultation process with the actors involved, for the design of the *LOSU*, the *Ministry* commissioned us to carry out a study which would map out the central nodes of the reform of the *Spanish Universities Law*”

In this regard, one of the central elements of the Bill is the limitation to 20% of lecturers on temporary contracts, as well as the definition of a path to stability with assessed paths laid out in terms of incorporation, consolidation and promotion. Similarly, the Bill confirms the dual role of the professional career, based on teaching and research, which is a model unanimously agreed in the research field to be the most appropriate. Furthermore, to safeguard access to the post of Associate Lecturer, without capacity for research, the *LOSU* gives teaching and research equal weight in the internal selection process.

This aspect of the Bill reflects another axis shared in the interviews: the need to rebalance the two functions of the lecturing staff, based on the unanimous consensus of the participants about the loss of centrality of teaching compared to research. This lack of recognition of teaching emerged when discussing access to posts, the absence of resources for teaching research, the absence of figures in teaching research or the lower weight of this type of merit in accreditations compared with pure research. This lack of appreciation can be seen in symbolic ways: one interviewee noted that the number of teaching hours is called *the teaching load*, a term not used for research.

In addition to the recognition of teaching merits, which must be measured quantitatively and qualitatively in accreditation and internal selection processes, the *LOSU* bill establishes that it will be compulsory for Doctoral Teaching Assistants to complete a teacher training course; it is proposed that teaching evaluation should be mandatory; and innovation in the forms of learning and teaching should be incorporated as a guiding principle of the university system. Previously, article 21 of the Royal Decree on the Organization of University Education had already established, in way that was new in the Spanish legal framework, a commitment to innovative teaching methodologies, which, if they affect the entire study plan, could be recognized in the European Diploma Supplement. At the same time, the *Ministry* is advancing the revaluation of teaching activity, assessing possible personal or collective incentives for excellence.

#### 4. Financing

The deficit and disparity in financing was a key element in the comments of the university administrators, and all the people who addressed this issue, without exception, also considered funding insufficient. One of the participants expressed it graphically:

“Honestly, I did not have the capacity to do anything sustainable, and that was the result of lack of funding. The money, which does not come in, is for maintaining things. My goal was for the campus not to collapse and for people not to kill themselves in potholes. That was my main objective. I was Director of Sustainability and I dedicated myself to sustaining my buildings.” [Rectoral management team]

In this respect, in 2017 the Report by the *Spanish University System Observatory* identified a wide disparity in the financing of public universities, as this is the responsibility of the autonomous regions. Furthermore, for the 2009-2015 period, it found a 20.2% decrease in income in the public universities in which the increase in income from fees (31.0%) did not compensate for the drop in public funding (-27.7%). In this period, the highest level of financing was in Andalusia (0.87% of GDP) and the lowest in the Balearic Islands (0.23%), Navarra (0.30%) and Castilla-La Mancha (0.35%). Only two of the Autonomous Communities (Valencia and Andalusia) reach the average of the EU22, and 5 of them (the three already mentioned, as well as La Rioja and the Basque Country) have funding below all the OECD countries. This report concluded that in 2017 a GDP increase of 17.7% would be needed to reach the EU22 average and 26.2% to reach the *OECD* average (Sacristán, 2017).

Regarding this issue, the final articles of the *LOSU* bill set out the obligation for the State and the Regional Governments to prepare a Plan to increase public spending that allocates a minimum of 1% to Higher Education in the Spanish State as a whole. This is a milestone that was not there in previous drafts, and was unanimously called for by all the participants in the study.

#### 5. University governance

The arguments regarding governance were articulated on three axes: internal, related to the form of governing body and election; external, linked to the participation of society in the management and direction of the universities; and transversal, associated with accountability for research, teaching and social projects. These aspects, in fact, have been the key to reforms in Europe for the last 20 years, adapting the university regulatory framework to the precepts of efficiency and effectiveness of New Public Management (Donina; Hasanefendic, 2018; Trakman, 2008; Christensen, 2011; Macheridis; Paulsson, 2021).

## 5.1. Accountability and planning according to objectives

Authors such as **Enders, Boer & Weyer** (2012) consider that Europe is witnessing a model of “regulatory autonomy” whereby the State guides university action by making its financing dependent on the achievement of objectives agreed with government institutions. This model, already consolidated in Spain with the deployment of regional contracts/plans, is confirmed by the LOSU with a series of unusual aspects identified by some participants in the research.

“In the document for University 2030 presented at the Conference of Spanish Rectors, the finance section establishes that there must be two or three large funds for financing. One of them has to be the structural fund, which has to be sufficient to allow the institution to function. Then there must be a fund for results, which aims to encourage the improvement of those aspects that may be politically strategic for the Regional Governments, for the State, for whatever is needed.” [Rectoral management team]

Other representatives of rectoral teams and the *Ministry* added the consideration of distinct languages or historical infrastructures to this matter. The LOSU takes up this approach and differentiates, on the one hand, structural financing (aimed at personnel and infrastructure) and financing for exceptional reasons (dispersal or presence in rural environments or the Spanish islands,

in addition to the aspects pointed out in the study); and on the other hand, financing for specific objectives. In this case, the LOSU links this funding not only to research, but also to other elements defined in the study as key aspects:

- Gender equity, which is also specified in the obligation to implement Equality Plans and positive action policies in professional career development
- The dissemination of Open and Citizen Science, to which the LOSU is committed through making it mandatory to have open dissemination of scientific advances and the collaboration of the university in its environment, with civil society projects or service-learning strategies
- Lifelong training, which in the Bill incorporates the commitment to official micro-degrees of between 4 and 30 credits, aimed at expanding training capacity beyond the youth sector.

Beyond these elements, linked to the importance of accountability for science research and communication (**Codina**, 2021), the LOSU requires universities to implement analytical accounting systems. This aspect was present in the study, seen not as a monitoring mechanism, but as an analytical tool for strategically defining finance for territorial or sectoral specialization.

“The European strategy is what will define the national strategy, but the strategies of each Autonomous Region may be different. There may be an Autonomous Region that emphasizes universities or faculties to do with agricultural development and others that are related with industrial development; it depends on their environment.” [Senior civil servant in the *Ministry*]

“Each university defines a series of specialization priorities that should be linked to the needs of the regions, and financial support mechanisms could be encouraged based on this concept. This model could generate thematic associations and inter-university alliances. It would be something similar to the system of “key words” in articles. If the “article” is the University, you see what each university has specialized in. If what interests you is the theme, you look for alliances based on the specializations of each campus.” [Lecturer]

The deficit and disparity in financing was a key element in the comments of the university administrators: “I was Director of Sustainability and I dedicated myself to sustaining my buildings.” [Rectoral team]

## 5.2. Internal and external governance

Another central element in the research was that of the forms of governance in the university, as has happened in the rest of Europe (**Donina; Hasanefendic**, 2018; **Gornitzka; Maassen**, 2017; **Capano; Pritoni**, 2020). Among the participants, conflicting proposals can be seen: from vertical and directive models to horizontal models of democratic intensification, according to previous studies such as that of **Castro & Georgeta** (2011). Next, we contrast the formula proposed by someone who holds the rectoral baton, in contrast to a model defined by a lecturer:

“How do you define being a Rector? Well, it’s like herding cats. How do we manage the university strategically? How do we do it? You try to make any reform in the universities! [Here he mention the example of a change from 4+1 to 3+2] The universities are paralyzed by the petty fiefdoms that exist, because you cannot break them easily. I would change the governance system to introduce elements that allow the rectoral team to align more easily with the heads of centres and the heads of departments.” [Rectoral team]

“We should think up a more imaginative structure that would allow many people to do few things and therefore form a broader ‘we’ based on defined horizons shared in democratic bodies. It would be like a kind of old-fashioned democratic centralism in which a shared horizon is defined, with an almost libertarian formula of participation in groups. The key is to have many people doing few things from a defined, demarcated and fixed point of view.” [Lecturer]

Another aspect of governance refers to the universities' relationship with society. This is another of the central axes on which the regulatory debate in Europe has pivoted (Jessop, 2017; Gornitzka; Maassen; De-Boer, 2017). In the study, proposals emerged, on the one hand, (admittedly minority ones) that opted to open the debate to management formulas based on an external management of the university (the majority model in current practice in Europe); and on the other hand, unrepentant approaches of self-government by the university body, shielded from business or managerial influence, were especially present among the teaching and research staff and in union organizations.

“I am pro-universal suffrage, but there is another governing model on the table, which is much more pragmatic: that you should have a board like in most European universities that chooses the rector. There would be people who represent civil society, and others who represent the business community, and so on. I would be in favour of that as long as the highest percentage was teaching and research staff, from the university itself.” [Rectoral team]

The key debate is how to achieve open, real participation with people across the board in the management of the university.” [Union representative]

Another ex-rector presented an interesting idea about the debate on managerial professionalization, refocusing the commitment to efficiency and effectiveness not only in governing the university.

Here they trick you, as they did to me, and I know it. Those who speak of this professionalization do so from a selective point of view, of the one who is in charge, not the rest [of the levels]. It makes no sense that a professor who is doing organic chemistry has to be the specialist in how to create a MOOC. What is the difference between a Spanish university and a German university? In the professionalization of administrative structures. Lecturer.

In its legislative form, the articles have undergone changes in their various formulations. The first of the drafts opened the possibility to vertical management forms and professionalized external management. Distancing itself from the European frameworks based purely on the ideas of New Public Management and the premises of the Anglo-Saxon neoliberal model (Brazzill, 2020), it left the universities with the possibility of adopting these models or keeping the current one, as had happened with the reform of Portuguese universities (Donina; Hasanefendic, 2018). However, the second draft made an about-turn and described a model that closed the door to external government and management formulas while proposing a Napoleonic structuring of the internal governing body based on the principle of voting, with bodies of broad representation, in clear dissonance with the models that are promoted by the OECD (Donina; Hasanefendic, 2018; Gornitzka; Maassen, 2017) or the ones that have already been implemented in the Netherlands, Sweden, Denmark and Austria (Capano; Pritoni, 2020). In the end, the final text has kept the essence of the second draft, closing the door to external government, but it will leave the definition of broad or closed government structures in the hands of the universities, safeguarding the principle of universal suffrage. It can be concluded, in this sense, that the current proposal, if successful, would be an exception within the model based on the New Public Management formulas. However, there are far from uniform interpretations, as the literature shows hybrid development at continental level (Capano; Pritoni, 2018) and state level (Gornitzka; Maassen; De-Boer, 2017) in the deployment of types of governance in Higher Education. Thus, the embodiment of the concepts of New Public Management promoted by the European authorities is strongly conditioned by national trajectories and culture, as well as by governmental will (Hall; Grimaldi; Gunter, 2015), in this case marked by the progressive character of the *Ministry for Universities*.

“The deficit and disparity in financing was a key element in the comments of the university administrators: “I was Director of Sustainability and I dedicated myself to sustaining my buildings.” [Rectoral team]

We end by thanking the journal *Profesional de la información* for the opportunity to present these brushstrokes about a bill that is now beginning its progress through parliament. We fervently believe that social and academic debate can only guarantee that it will be improved.

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