

Transition legacies, rules of appropriateness and 'modernization agenda' translation in higher education governance in Lithuania, Romania and Slovakia

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Abstract

This dissertation seeks to contribute to an understanding of the translation of internationally promoted models of higher education (HE) governance. It focuses on transition countries sharing similar starting conditions and external pressures, yet different results in the translation process; Lithuania, Romania and Slovakia, which all experienced direct Communist party control over universities prior to 1989. After 1989, they reformed HE governance by introducing organizational autonomy for universities, reacting to state centralization. During the late 1990s and early 2000s, they implemented reforms under the influence of the ‘modernization agenda’ spread by major international organizations; the World Bank, OECD, UNESCO-CEPES, and European Commission.

The use of the ‘modernization agenda’ is studied in changes made between 1988 and 2012 in three policy areas representing three dimensions of HE governance: university relationship with state (changes to funding and property use), university internal management (centralization of university internal management and organization), and university relations with wider society (introduction of university boards). These processes are explored through the theoretical lenses of historical and sociological institutionalism, underscoring the importance of domestic institutions in the translation of international models. The former approach points to the importance of historical legacies, while the latter concentrates on how rules of appropriateness structure actor behavior.

The dissertation is based on qualitative analysis of data from 121 semi-structured interviews, and 97 documents produced by proponents and opponents of changes in these countries. Analysis of the data lead to three key findings, contributing to scholarly research, and possibly informing policymaking practice, as follows:

- It demonstrates the productiveness of a rarely used approach; combining the logic of

appropriateness and historical institutionalism. These approaches complement each other. The former increases the explanatory power of historical institutionalism through the concept of legitimacy, helping to explain the openness of an institution to change, and the shape that change takes. The latter shows how changes viewed as legitimate will not materialize if actor behavior is bound by legacies.

- It enriches the literature on HE reforms, especially in the understudied post-communist region. It provides two novel points, when showing that HE governance reforms following regime change were not built on legacies of communism and the pre-communist era, but were a reaction to the communist system. Additionally, legacies produced by critical juncture in the early 1990s critically influenced the translation of the ‘modernization agenda’ decades later. It also shows that the relevance of the Bologna model is overestimated (no Bologna reforms have been used in the three studied areas).
- Policymakers can learn that during the institution design process, establishment of rigid positions by actors with potential later influence over policies should be avoided, and that during institutional change substantive energy needs to be devoted not only to policy design, but also to limiting the impact of reform opponents. Also, international recommendations can only be successful if they recognize what national reformers perceive as appropriate, and if reformers have real influence over policy adoption process.

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LIST OF ABBREVIATIONS

ECs	epistemic communities
EUA	European University Association
HE	higher education
IGs	interest groups
MoE	ministries responsible for education, including higher education
MoF	ministries responsible for finance
OECD	Organization for Economic Cooperation and Development
UNESCO-CEPES	United Nations Education, Scientific and Cultural Organization European Centre for Higher Education
WB	World Bank

1. INTRODUCTION

1.1 *General context, puzzle and research question*

‘Catching-up with Europe’ was one of the slogans of post-communist transition in the early 1990s (Cerych 2002). The political elites wanted to adopt Western models, which they believed led to a higher quality of life and the superior functioning of society. A decade later policymakers in higher education were motivated by similar goals when they expressed the wish to ‘catch-up’ with Western academic systems (Dakowska and Harmsen 2015). One of the interviewed Slovak reformers described the higher education reforms proposed in the early 2000s: “[t]hose of us who understood broader circumstances, we knew that this is the direction that Europe is going, the world is going” (Slovak interview no. 4). The ‘direction’ these reformers had in mind was what Gornitzka and Maassen (2011) refer to as the ‘modernization agenda’ of higher education (HE), which had been shaping HE governance in Europe since the turn of the century. The ‘modernization agenda’ was based on two basic premises, the need for both increased autonomy and enhanced efficiency of universities. This ‘modernization agenda’ was not however, floating in the air but it was being actively promoted by the major international agencies in HE – the World Bank, OECD, UNESCO-CEPES as well as by the European Commission (Dakowska and Harmsen 2015). Put differently, the ‘modernization agenda’ served as an international model of HE governance that spread across national HE systems in Europe. Yet, despite the overall openness of post-communist countries to the ‘modernization agenda’ and its active promotion by the international agencies, we do not see convergence to one single model of HE governance in the post-communist countries (Dobbins and Knill 2009; Leisyte 2014)

What is especially puzzling is that, in the area of HE governance, we can observe a divergence of systems among countries with relatively similar reform starting points, in this

case 1988/1989¹. This was the situation with the countries studied in this dissertation; Lithuania, Romania and Slovakia. In the late 1980s, they each experienced a relatively conservative version of communism, with direct Communist Party control over universities. In the period analyzed in this dissertation, the 1990s – 2000s, all three countries were exposed to similar influences by the World Bank, the OECD and the European Commission promoting the ‘modernization agenda’ for HE. However, the countries took quite different directions regarding HE governance reform. This puzzle poses the research question addressed in this dissertation: *Which factors influenced the differing use of the ‘modernization agenda’ and how in three post-communist countries with a similar HE reform starting point - Lithuania, Romania, and Slovakia?*

The research question is tackled by studying the use of the ‘modernization agenda’ in three policies: 1) university internal organization and management; 2) public funding and immovable property use; and 3) involvement of external stakeholders in university management. As discussed in section 2.1, each of the policies represents one dimension of HE governance. The first concerns management within a university, the second refers to the relation of a university to the state, and the third tackles the university’s relationship with wider society. The main conclusion is that the use of the ‘modernization agenda’ was influenced by the rules of appropriateness on the one hand, and on the other by legacies originating from the HE governance institution designed during post-communism critical juncture. Both of these institutional characteristics structured the behavior of actors involved in the reform process, leading to diverging outcomes despite the largely uniform influence of the international model, the ‘modernization agenda.’

¹ In Lithuania changes in the society and HE started already in 1988 with Gorbachev’s perestroika while in other two countries it was at the end of 1989. For details see sections 4.2.1, 4.3.1 and 4.4.1 on early transition in Lithuania, Romania and Slovakia.

My conclusion is important for several reasons. It enhances understanding of reform process, in terms of what shapes the actors' policy choices, and what specific role the international models play in this process. This information contributes to the literature dealing with institutional change, while it also helps to formulate recommendations for national level reformers and international experts on how to enhance policy-design processes.

This dissertation speaks to the new institutionalism literature, pointing out the importance of the national level institution regarding the translation of international and foreign models (Gornitzka 2013; Gornitzka and Maassen 2011; Radaelli 2005; Campbell 2004; Sporn 2003). It supports the claims of authors promoting an eclectic approach to theoretical frameworks, such as Hall (2010), that none of the new institutionalism frameworks alone can explain institutional and policy change. In line with Dobbins and Knill (2009), it combines historical and sociological institutionalism to analyze reform processes. This dissertation complements this stream of literature in three ways.

Firstly, from sociological institutionalism, it employs the logic of appropriateness concept, which is not commonly used in combination with historical institutionalism. The logic of appropriateness increases the explanatory power of historical institutionalism by providing an explanation of change going beyond the empowerment of the authors of change. This is very useful, as the majority of changes made in the 2000s in the three countries studied (see subchapters 4.2 - 4.4) did not enhance the power of those who proposed them, but were rather introduced because they were perceived as appropriate.

The logic of appropriateness also brings in the idea of legitimacy, which helps explain the openness of institutions to change. This is very useful as historical institutionalism traditionally concentrates more on explaining the persistence of institutions (Mahoney and Thelen 2010). If the legitimacy of appropriate rules forming an institution introduced in

transition decreases, along with their defenders, then these rules become more open to change. Following on from this, the particular change aims at increasing the legitimacy of the institution or of the appropriate rules forming it (Hall and Taylor 1996; March and Olsen 2004). By contrast, if the institution in place or the policy designers defending it remain legitimate, then the change will not even be considered and the reform fails.

Secondly, this dissertation shows how historical institutionalism enhances the explanatory power of the logic of appropriateness. Historical institutionalism helps to explain why seemingly legitimacy-enhancing reform may not always lead to change, since institutional legacies can bind the actors, in varying degrees, through path-dependencies (Hall and Taylor 1996). In addition, negative legacies in the form of unintended and reverse consequences, along with institutional frictions, require a response to correct them. The need to correct negative legacies then shapes the policy choice (Hood 1998; Lieberman 2002).

Thirdly, this dissertation adds to the literature on higher education reform in Central and Eastern Europe (CEE). This is important because the CEE region remains vastly understudied in comparison with Western Europe, and there is limited research containing in-depth analysis of the causes and mechanisms behind changes, and of the differences among CEE countries (Leisyte 2014; Dakowska and Harmsen 2015). The dissertation, which is based on very rich data from over one hundred and twenty interviews and nearly hundred documents covering almost 25 years of reform in three post-communist countries starting at the end of 1980s, seeks to correct some of these imbalances in our knowledge base on CEE HE.

The findings presented in chapter 5 offer two further insights. One is that the HE governance institution designed after the change of regime in the CEE countries was built in reaction to the communist system. This deviates from the existing literature (Cerych 2002; Dobbins and Knill 2009; Leisyte 2014), according to which post-communist policy choices

were shaped by path-dependencies from communist and pre-communist periods. The second finding is that the legacies produced by the institution designed during the critical juncture, meaning right after the regime change in the early 1990s, had an important influence on the use of international models. This is a novel point in the literature on higher education reform in CEE.

In addition to the theoretical contributions, the data analyzed can lead to several recommendations for policymakers. The evidence suggests ideas on how to enhance policymaking process at national level, so that reform can be designed more successfully. Furthermore, the final part of the dissertation offers insights into local factors that should be taken into account by international experts and agencies, in the interests of improving the impact of their recommendations on the respective country.

1.2 Thesis structure

The dissertation is organized around five main chapters: introduction; conceptual and analytical framework; research design; case studies; and the final chapter, including discussion, contributions and suggestions for further research. Chapter two starts with defining two key concepts used throughout the dissertation; higher education governance and the ‘modernization agenda’ (subsection 2.1). This is followed by subsection (2.2) devoted to the analytical framework providing the lens for data analysis and explaining why actor-based approaches originally chosen are not suitable for explaining the use of the ‘modernization agenda’. Subsection 2.2 further shows how the combination of historical and sociological institutionalisms addresses the shortcomings of the actor-based approaches and how these two frameworks facilitate understanding of the use of the ‘modernization agenda’. Subsection 2.2 concludes with a summary of key propositions of the analytical framework used in the case studies.

Chapter three presents the research design. This chapter includes information on the operationalization of the independent and dependent variables, case selection, research scope, data collection and analysis, reliability, validity, generalizability, and ethical considerations. Chapter four is the largest part of the dissertation, containing data and analysis of all three countries. Its subchapters on the countries have the same structure. They are composed of two major parts. The first is devoted to description and analysis of the institutional design phase in the early 1990s. The second part analyzes the way the ‘modernization agenda’ was translated in the end of 1990s and in the early 2000s. This part concentrates on understanding the role of early transition institution legacies, and rules of appropriateness in the policy translation process. The concluding chapter presents the main findings interpreted through the analytical framework (5.1). Based on these findings, key contributions to the literature and policymaking process are outlined (5.2). The final part of the concluding subchapter (5.3) suggests further avenues for research.

2 CONCEPTUAL AND ANALYTICAL FRAMEWORK²

2.1 Key concepts

Before discussing my analytical framework it is useful to provide definition of two basic concepts used throughout the dissertation; higher education governance and the ‘modernization agenda’. These concepts are intertwined, and hence their definition in this section respects this. The OECD (2003) offers a comprehensive definition of HE governance, according to which this concept comprises a complex web of formal regulating (legislative framework) and less formal HE steering structures, as well as characteristics of HE organizations and their relationship to the whole system. In other words, HE governance encompasses how universities are managed internally, and how they relate to the external world and the external world to them. Governance defined this way, for analytical reasons, can be divided into three dimensions: university internal management, university relations with state, and university relations with wider society. The use of the ‘modernization agenda’ is studied in all three dimensions.

The modernization agenda of HE governance³ refers to the new model of HE governance promoted by international organizations (the World Bank, OECD, UNESCO) and the European Commission since the end of the 1990s (Gornitzka and Maassen 2011; Dakowska and Harmsen 2015). As already mentioned, the ‘modernization agenda’ is based on two basic premises. The first is the need to increase university autonomy, which means empowering university central management at the expense of academic oligarchy and national authorities (Gornitzka and Maassen 2011). The second principle is in line with New Public

² The analytical framework reproduces a small part of an article that I authored: Renáta Králiková (2014): International models and domestic translations? The case of university governing boards in Romania and Lithuania, *European Journal of Higher Education*, DOI: [10.1080/21568235.2014.969290](https://doi.org/10.1080/21568235.2014.969290)

³ The European Commission uses a similar term, ‘modernization agenda’, in its policy template for universities (e.g. http://ec.europa.eu/euraxess/pdf/COM%282006%29_208.pdf, accessed 1 February 2016). The European Commission uses this term to refer to a set of tasks to be delivered, whereas Gornitzka and Maassen (2011) use it as a frame of reference. In this thesis, the term is used in line with Gornitzka and Maassen, serving as an analytical tool.

Management, claiming that universities should function as efficiently as possible (Sporn 2003). Principally, this means the state should move away from detailed control of inputs to performance-based funding, allowing outcome assessment of university activities. The two premises of the ‘modernization agenda’ stimulate changes in the three dimensions of HE governance defined above. The centralization of management is behind the new definition of university internal management, and the university relationship with wider society. The efficiency of university functioning changes the relationship between state and university. It must be noted that the reformers proposing changes in line with the ‘modernization agenda’ were not aware of the existence of such global model. Yet it provides a conceptual tool to analyze the changes in the three post-communist countries studied.

2.2 Analytical framework

The analytical framework was defined in two steps. I first started my research using actor-based approaches, stressing the role of actors in policymaking process, including the use of international models. However, initial analysis of the fieldwork data revealed significant limitations in these approaches, and pointed out the importance of structural conditions and the role of reform authors. Both these areas can be analyzed using historical and sociological institutionalisms. To explain the development of the analytical framework used in the present dissertation, this subchapter starts with presenting the actor-based approaches and their limitations in regard to the use of internationally promoted models. This is followed by a presentation of the key premises of historical and sociological institutionalism, which are better suited to explain the use of internationally promoted models.

2.2.1 Actor-based approaches and the use of internationally promoted models

The use of actor-based approaches is supported by the literature. According to Haas (1992), human agency plays a central role in policymaking process, as it occupies an intermediary position between systemic conditions, knowledge and state action, and the ways individual

actors are able to influence policymakers' decisions. Also, HE literature stresses the importance of actors' influence on policymaking process. For example, Marshall (1995) points out that HE policy is too complex and technical for governments, and thus they make extensive consultative arrangements with interest groups. Dobbins and Knill (2009) note that actors and their rationales drive policy change in HE governance. Finally, Marginson and Rhoades (2002) observe that one of the great weaknesses of comparative HE research is that it does not pay sufficient attention to the human agency that shapes HE policies. They remark: "Policies are about the mobilization of partisan politics, shaped by various interest groups and social movements, organized efforts by social classes and other groups to shape social opportunity." (p. 286).

In choosing actor-based approaches, I followed Richardson's (2001) distinction between two basic types of actor influencing the policy design process: members of international epistemic communities active in their home country, and those of domestic interest groups. The epistemic communities (ECs) were defined in line with Haas (1992) as: "a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge" (p. 3). An epistemic community shares the same world-view, thanks to which it has a common understanding of what the problem is and what the appropriate solutions are (Haas 1992).

Members of transnational ECs participate in defining common policy at international level with regard to problems that are similar across countries, and prepare the ground for joint problem solving among different states (Holzinger and Knill 2005). Cooperative problem solving is enabled by the existence of a communication platform, where EC members can meet regularly and discuss the relevant problems. In HE, such platforms include the Bologna process, European university networks (e.g. European University Association), research

groups and conferences launched by the OECD, and research teams that produce scientific studies and act as consultants for state agencies (Musselin 2000; Holzinger and Knill 2005).

Unlike epistemic communities, interest groups (IGs) do not have to share the same world-view. Wilson (1990) defines IGs as organizations in close partnership with government, which are trying to influence them. According to Thomas and Hrebenar (2008) IGs can also be part of governmental bodies, such as expert agencies created by government. IGs find different avenues to influence the policymakers (Coen 2007), either by direct lobbying or by forming alliances, which Thomas and Hrebenar (2008) call organizational interest. To cite two examples in HE, rectors' associations would constitute an organizational interest, while the rector of a university taking an advisory role for the education minister is an example of direct lobbying.

The initial analysis of the data collected during the fieldwork in Slovakia and Lithuania showed that the concepts of interest groups and epistemic communities would not be appropriate in this case, due to them not having sufficient explanatory power regarding the differing use of similar international trends in countries with a similar reform starting point. The data from the fieldwork indicate that the authors of the reforms introducing the 'modernization agenda' were interested in similar, or even identical, internationally promoted models of HE governance, i.e. they were looking for the same solutions. This could imply that the reformers were part of the same epistemic community sharing the same world-view, as defined by Haas (1992). Yet the actors designing reforms at national level adjusted the internationally promoted models to the domestic conditions, meaning they included only some elements of the policies from the 'modernization agenda'. National conditions appear more important than the common episteme of the internationally promoted model.

The preliminary analysis confirmed Marshall's idea (1995) that interest groups play an important role in defining HE policy. In the cases studied, the IGs are represented mainly by academics in the area of university internal management and university relations with wider society, and by finance ministries and similar organizations in the area of material and financial resource use. The IG concept defines some of the necessary (but insufficient) conditions for understanding the use of internationally promoted models. IGs provide a possible source of influence. However, the IG concept does not tackle two important issues that are key to explaining the puzzle formulated in section 1.1. Firstly, IGs pay limited attention to those who are being influenced, i.e. to the people defining and promoting a reform. This is problematic, because one of the important factors influencing the use of internationally promoted models is how the reform authors decide to use these models. Secondly, this approach does not take into account the differing use of internationally promoted models in different policy areas in one setting with the same actors involved.

To sum up, both epistemic community and interest group approaches are limited in their capacity to explain the differences among comparable countries in applying similar international trends. Thus, the original analytical framework had to be refocused to take into account the role of actors proposing changes, and the conditions influencing actors' use of internationally promoted models.

2.2.2 Historical and sociological institutionalism providing analytical lenses

Both shortcomings of the actor-based approaches can be tackled by employing new institutionalism approaches. These approaches explain different impacts of internationally promoted models on different countries, through analyzing the role of domestic institutions in the process (Gornitzka 2013; Gornitzka and Maassen 2011; Radaelli 2005; Campbell 2004; Sporn 2003). Hence, they take into account the domestic conditions neglected by actor-based approaches. As will be explained in detail later in this chapter, sociological institutionalism

and its logic of appropriateness concept is also well positioned to address the role of the reform authors. The concept of logic of appropriateness looks at the rules of appropriateness structuring the behavior of the reformers as one of the factors influencing the use of internationally promoted models. As discussed in detail below the logic of appropriateness has wider explanatory power in covering the factors which open an institution to change, and those which shape that change.

The second type of factor influencing the use of internationally promoted models through shaping national structures differently, is institutional legacies. These legacies have their source in critical juncture, when a new institution is designed (Collier and Collier 1991). The critical juncture and the influence of the past on present policymaking process are both at the center of historical institutionalism, which represents the second key theoretical approach of the present analytical framework. Nonetheless, historical institutionalism has limited explanatory power in explaining the motivation of actors participating in designing and redesigning of the institutions, if this motivation is not based on attempts to enhance or preserve one's power (Mahoney and Thelen 2010). This kind of motivation can be better analyzed through the use of logic of appropriateness, which states that actors behave according to what they see as appropriate, rather than in line with the expected utility of their action (Olsen and March 2004).

A combination of theoretical arguments from historical and sociological institutionalisms is not a novelty in the analysis of the use of internationally promoted HE governance models. Dobbins and Knill (2009) employed this approach in their study of four post-communist countries (Romania, Bulgaria, Poland and the Czech Republic). What is original however, is the use of the logic of appropriateness concept in tandem with historical institutionalism.

In what follows I discuss how historical and sociological institutionalisms are useful in understanding the institution design phase, and how they explain the impacts of the institution design on later changes. Then I look at how these two new institutionalism streams are beneficial in analyzing the use of internationally promoted policies. In the final part of this chapter, I summarize the basic lines of the analytical framework, which I then use in chapter 4 to analyze the cases of Lithuania, Romania and Slovakia.

2.2.2.1 Institution's design

Historical institutionalism draws our attention to the institution design moment. The concept of critical juncture allows an understanding of when a new institution is designed, and what the politics are behind the institution's formation (Thelen 1999). Therefore this part starts by presenting the critical juncture concept. Once this concept is presented, I explain how we can conceptualize the design of the institution, which is where sociological institutionalism comes into play with its logic of appropriateness concept. This part concludes by returning to historical institutionalism, which provides important insights into how newly established institutions are stabilized through positive feedback mechanisms.

2.2.2.1.1 Critical junctures – opening the space for a new institution

A critical juncture is the moment when historical developments move onto a new path (Hall and Taylor 1996). It takes place when there are larger sets of political transformations, such as a move from an authoritarian to a democratic regime. An event can be conceptualized as a critical juncture when it bears three characteristics: it is a significant change, it is a distinct change for different countries or other units of analysis, and it produces a legacy (Collier and Collier 1991). Critical junctures fix into place basic political orientations and institutions. Subsequent changes are variations of basic organizational logic introduced during the juncture (Ikenberry 1994). As result of the critical juncture, patterns of political mobilization, the

institutional rules of the game, and the way people think about the political world are established (Skocpol and Pierson 2002).

One of the important consequences of the critical juncture is the manner of institutionalization of possible future opposition movements (Collier and Collier 1991). If such movements are institutionalized as part of the political system through, for example, incorporation into political parties, then they become relatively passive. If such movements are institutionalized in opposition to the political system, and are regulated by the state, then there is a greater chance they will be mobilized later against the establishment (Collier and Collier 1991).

The critical juncture concept seems to be applicable to HE changes resulting from the overthrow of communism. The end of communism represented a major change, which was distinct across the post-communist countries, and produced important legacies through the fixing of political orientations and institutions. The fall of a communist regime represented discontinuity and an abrupt major change. There was a lack of institutions that could provide normative and cognitive frames within which actors would be able to know what is expected from them in certain situations, and how others would behave in that situation (Offe 1996). Central and Eastern Europeans saw the situation following the collapse of communism as a historic opportunity to shape their future (Bohle and Greskovits 2012). This opened a space for institution-building process. Alternative paths were taken by CEE countries in removing the communist regimes, yielding differing transitional institutions. Diverse strategic interactions between rulers and opposition created differing political institutions and rules of the game across post-communist countries (Bruszt and Stark 1998).

2.2.2.1.2 Designing an appropriate institution

After conceptualizing the point when the institution is designed, it is useful to turn to the factors influencing the shape of the new institution. Hood (1998) provides a good starting point for this, stating that new reform leading to a new institution is a reaction to the status quo. This argument offers two important insights. Firstly, it helps to specify the time frame of the analysis. In other words, it can point to which period matters most for the present developments. It is the system in place before the critical juncture (Hood 1998). This deviates from the arguments of authors who interpret post-communist HE changes by looking at connections to pre-communist and communist models. For example, Cerych (2002) notes in regard to HE a restoration trend in post-communist countries, an attempt to return to pre-war models and traditions. Leisyte (2014) connects the changes after 1989 in the post-communist countries to the influence of legacies stemming from communism and the pre-communist era – especially the Humboldtian and Napoleonic HE traditions.

The second important part of Hood's (1998) argument is that it informs us about the basic direction that the institution design takes. Namely, the new institution is designed in a way that addresses the weaknesses of the 'old' institution. The weaknesses, according to the logic of appropriateness concept, are viewed as problematic when they decrease the legitimacy of the institution in place (Olsen and March 2004). The need to increase legitimacy then stimulates new practices that would enhance it. New social practice institutionalizes what is appropriate (Balsiger 2014). In other words, the way a new institution is constructed depends on what is seen as legitimate or appropriate by actors who generate, support and enact the institution (Offe 1996).

The previous argument indicates that the characteristics of the new institution depend on the logic of appropriateness. The remainder of this part is devoted to a detailed explanation

of this concept, as the institution's characteristics encapsulated by this concept are key to an understanding of how institutions influence the use of internationally promoted models.

According to the logic of appropriateness, human action is driven by the rules of appropriate behavior built into institutions (Balsiger 2014; Olsen and March 2004). In other words the institution is formed by rules. When discussing in this and other sections about institutional change/influence of an institution, this also encompasses partial changes to the rules of appropriateness forming the institution/influence of some rules of appropriateness.

The rules are followed because they are natural, right, predictable and legitimate, independently of, or even in spite of, the expected utility of the action. The institution provides the lens through which actors see the world around them, and helps them to know how they should behave in a certain context (Hall and Taylor 1996). The actors behave in accordance with expectations connected to their roles, identity and membership of a political community. The behavior of different actors can then be driven by different appropriate rules (Olsen and March 2004). The role of some actors can be to propose policy changes, or to have a decisive say in the adopted version of the change. For analytical reasons, I call the actors proposing change 'authors of change or of reform', and actors influencing the final form of the adopted change, 'legitimate policy designers'.

Sociological institutionalism, and especially the logic of appropriateness concept, in relation to defining institutions, is useful for HE. In line with sociological institutionalism, Gornitzka and Maassen (2011) define 'institution' in the context of HE governance as being shared understanding of what constitutes the appropriate modes of university governance, which actors are seen as legitimate, what their roles in managing the university are, the rules of interaction between academic and political spheres, and the manner in which universities should be financed. By using the perception of the logic of appropriateness, for analytical

reasons, I identify two major dimensions in this definition of HE governance institutions. The first is the appropriate governance of the university as an organization, and of the whole HE sector. The idea of what is appropriate provides actors with a prism through which they look at the existing HE governance model, and at the ‘modernization agenda’. For example, if actors see self-governance as an appropriate model, the introduction of external stakeholders into university management is not deemed appropriate.

The second dimension refers to appropriate policymaking process in HE. This covers actors legitimately participating in the HE policymaking process, including both those who are reform authors, and those who are legitimate policy designers influencing the final form of adopted change. The policymaking process is defined in formal rules (e.g. laws), but more importantly in informal practices. The behavior of the reform authors and legitimate policy designers can be structured by different appropriate rules (Olsen and March 2004). This means that they perceive different policy models of university governance as appropriate, and thus will promote different policies. Both dimensions (HE governance model and policymaking process) are designed during the critical juncture as described above.

2.2.2.1.3 Institution reinforcement – positive feedback mechanisms

Once a new institution is in place it becomes, according to historical institutionalism, reinforced by a positive feedback mechanism (Skocpol and Pierson 2002). As Collier and Collier (1991) note, the stability of the legacy produced by critical juncture is perpetuated through ongoing institutional and political processes (p. 31). According to Pierson (2000), earlier events matter more than later ones in reinforcing the institution in place and building the legacy, because they set up the direction for later events. The importance of earlier events in the definition of legacies indicates that to understand institutional legacies in post-communist countries, it is indeed necessary to concentrate on the analysis of the first years of transition. As Pierson (2000) continues, the positive feedback mechanism reinforces both

dimensions of the institution as defined above. It strengthens the institution in place as well as the political authority of the actors, allowing them to generate changes in the rules of the game.

There are two sets of feedback mechanisms identified in the literature. Firstly, the functional mechanism, meaning that once the institution is in place actors adjust their strategies to it, and even reinforce the logic of the system (Thelen 1999). For instance, if key changes to HE laws are made in parliament, the university representatives will concentrate their efforts on influencing laws through MPs. Even if the education ministry were to establish a committee preparing the law, university representatives may not engage with it fully, as they would concentrate their efforts on lobbying parliament. The second mechanism refers to the distributional effects of institutions, which implies that institutions reproduce and magnify patterns of power in politics. In doing so, the institutions contribute to the self-awareness of groups, recognition of common interests, and the building of political alliances. This leads to a situation where some policy avenues are blocked or cut off, meaning that some policies are not taken into consideration (Thelen 1999).

As mentioned earlier, the present analytical framework does not define the role of institutions as distributing different levels of power, but rather as allocating different roles to different social actors (Olsen and March 2004). Hence, distributional effects considered as positive feedback mechanisms should be understood here to mean mechanisms reinforcing the allocation of roles, especially those of reform authors and legitimate policy designers. In HE, this could mean that, during the institution design period for example, faculty representatives are ascribed the role of appropriate actors defining the university management model, thereby becoming the key legitimate managers. The faculty representatives then gain the self-awareness of a group whose interest is to preserve faculty as the key operational unit of the university. As a result, the centralizing of managerial power becomes blocked as a

policy option, as it is considered inappropriate. Faculty representatives can promote their interest, because during the institution design phase they were also allocated the role of legitimate policy designers in the area of university management.

According to Pierson (2000), positive feedback mechanisms contribute to creating path-dependencies. Once path-dependencies are in place, institutions take on persistent features and historical developments follow set paths (Hall and Taylor 1996). In our case, path-dependency influences both the model of university governance and the roles of actors in policymaking process. Institutions, once established, are reproduced over time, and frozen systems are produced (Pierson 2000, p. 258 - 259). What the impact of such frozen systems on the use of internationally promoted models is, and how such systems can be 'unfrozen', is discussed in the following part.

2.2.2.2 Institutional change and internationally promoted policies

Even if the institution becomes frozen due to the reinforcing mechanisms described above, there is a possibility for change later on. According to sociological institutionalism, the institution becomes open to change when it loses legitimacy (Hall and Taylor 1996). In other words, when it no longer addresses what is right or wrong, or what is true or false, and the need arises to change or replace it in order to regain legitimacy (Olsen and March 2004).

Whether the institution will be open to change, and how that change will be shaped, which refers also in this case to the way 'the modernization agenda' will be used, depends mainly on how the problems and their solutions are perceived. This is well expressed by Hood (1998), who claims that not everyone perceives the same events as problems, and people also differ in regard to what they see as solutions:

...public management is like the drains, in the sense that it normally grabs attention when there is a nasty smell of some kind...what counts as a bad smell is not likely to be the same for everyone. What to one person is an intolerable stink may be scarcely noticeable to another. Views will often diverge sharply on who or what is at fault and

what should be done to fix the problem. There is no universal agreement on what counts as 'problem' and what as 'solution', or when the point is reached where the 'solution' becomes worse than a 'problem' (Hood 1998, p. 24 - 25).

Moreover, not everyone's perception of a 'problem', or of what is deemed inappropriate, is of equal importance. For institutional change, the key is the interpretation of the problem and its solutions by actors allocated the roles of authors of change and of legitimate policy designers influencing the final form of the adopted change. The next section details under what conditions an institution becomes open to change, and what factors shape that change.

2.2.2.2.1 Institution becoming open to change

As mentioned already the institution becomes open to change if its legitimacy decreases (Hall and Taylor 1996). One or several of the following factors can cause this: a new institution structuring actors' behavior, unwanted consequences, and institutional frictions. The three factors can have an impact concurrently or in isolation.

The interpretation of what is considered appropriate can change when **the behavior of the reform authors and/or policy designers starts to be structured by a 'new' institution**, in the case that it is different from the one introduced during the critical juncture. When a new institution becomes more influential, this can decrease the legitimacy of the 'old' institution. The influence of a new institution can develop from a new experience of the reform authors and/or legitimate policy designers challenging the rules of appropriateness and collective self-understanding, which cannot be addressed by the existing conceptions (Olsen and March 2004). A new institution can also gain credibility when the actors absorb new expectations through socialization, education, and on-the-job learning (DiMaggio and Powell 1991). In other words, through socialization, education, on-the-job learning, and new experiences, the actors' behavior can start to be structured by a 'new' institution, which leads them to perceive the 'new' as opposed to the 'old' institution as appropriate.

The effects of a new experience, socialization, education and on-the-job learning can be enhanced by the increased mobility of people and the exchange of information with actors from different institutional environments (Olsen and March 2004), a process galvanized these days by regional and international organizations such as the World Bank, OECD and EU (Holzinger and Knill 2005; Gornitzka and Maassen 2011). This is especially the case in the area of HE, where strong, formal transnational communication platforms started to develop in Europe as a result of the Bologna process, which was launched in 1999⁴. The Bologna process provided, for the first time in Europe, an organized platform for exchanging ideas on HE policies, bringing together decision-makers and experts on a regular basis. These ideas also concerned HE governance reforms (Dobbins and Knill 2009). The existence of these communication exchanges in Europe indicates that new institutions structuring the behavior of reform authors and/or legitimate policy designers could be a reason behind the decrease of legitimacy of 'old' HE governance institutions in Europe, including in the three countries studied.

Another way a new institution can start to structure the behavior of reform authors and/or legitimate policy designers is through generational change. The reason why this factor can increase the influence of a new institution is that the relationship between social actors and institutions is reciprocal (Hall and Taylor 1996). This means that social actors generate, support and enact institutions, which then generate social agents following the social norms (Offe 1996). Actors can become more attentive to the new institution when they are less connected with the 'old' institution in place. If there is a high turnover or generational change of people of different backgrounds and cultural expectations, then this will eventually erode

⁴ The Bologna process started with 29 European education ministers of education signing the Bologna declaration. The main aim of the Bologna process is to "create a European Higher Education Area (EHEA) based on international cooperation and academic exchange that is attractive to European students and staff, as well as to students and staff from other parts of the world." (<http://www.ond.vlaanderen.be/hogeronderwijs/bologna/about/> accessed May 25th 2010).

institutionalized norms and activities (Oliver 1992). New actors performing the role of reform authors/legitimate policy designers, who are not connected with the institution design during critical juncture, may then support and enact a 'new' institution. The impact of the generational change factor may be relevant to the present dissertation, as the 'modernization agenda' came into play 10 to 20 years after the design of the post-communist HE governance institutions in the three countries studied. Hence, there is a possibility for change among the actors involved in the HE policymaking process.

The second factor is based on the idea that each reform has built-in weaknesses leading to **unwanted consequences** (Hood 1998). These consequences can take the form of either unintended or reverse effects. Unintended consequences are negative side effects of an institution. A reverse effect refers to an institution stimulating the opposite behavior of what was intended. Subsequent reforms then attempt to tackle the negative or reverse impacts of previous change (Hood 1998).

In the case of HE governance we can find both types of unwanted consequence. For instance, the introduction of self-governance as a university management model can lead to the unintended consequence of inefficiency. The reason is that according to this model, the HE governance institution is built on the idea that the university leader should come from the university. It is not important whether this leader possesses the managerial skills enabling him to manage the university well. The reverse effect could occur if self-governance is introduced without any rules, based on the belief that academics at the lowest level will be best suited to developing such rules and choosing the best leaders. However, some groups of academics may be equipped with better networks than others, and can use this rule vacuum to seize power over universities. This could lead to a situation where the university would not be managed by all the academics, but by a limited group of academic oligarchs. This would be the opposite

of the intended result of a reform trying to introduce democratic and egalitarian governance of universities, where everyone has the possibility to influence university management.

Hood (1998) makes another important point regarding the impact of unwanted consequences. He notes that the more emphasis is placed on an extreme solution to a problem, the more likely it is that unanticipated side or reverse effects will take place. The reason in his view is that extreme policies provoke fierce resistance from those opposing such solutions (p. 18). Bohle and Greskovits (2012) make a similar argument, claiming that when there is a big expansion on only one institutional dimension then the seeds of failure are planted, because the negative externalities of a polar dimension are not counterbalanced by the impact of another dimension (p. 20). In the case of HE in the three countries studied, such extreme solutions were introduced after 1988 in the area of university autonomy and self-governance as a reaction to the highly centralized HE governance systems in these countries during communism (Devinsky 2000; Leisyte 2014). This leads to the expectation of unintended and reverse effects in the three cases studied.

The final important factor stimulating institutional change is **institutional friction**, as conceptualized by historical institutionalism (Skowronek 1995; Bruszt and Stark 1998; Thelen 1999; Lieberman 2002). The basic idea of institutional friction is that polity is composed of different institutional orders (Thelen 1999). These orders are present in different domains e.g. political, economic or social. Over time they can develop at different speeds and in different directions. Skowronek (1995) adds that, as there is a number of institutions with their own history in a given society, then at any given moment there will be many different rules of legitimate action, and many different systems of meaning. Furthermore, since institutions are political their purpose is to control individuals or institutions outside of their sphere. As a result, different rules of orders grate against each other within a given polity (Skowronek 1995).

The situation is not different in post-communist countries where, after the end of the communist regime, different institutional orders developed at different speeds and in different directions. Bouzarovski (2009), for example, demonstrated the importance of frictions in reform of the energy sector in post-communist countries. More generally, Bruszt and Stark (1998) point out that there was not one but several transitions taking place in each post-communist country. For the present dissertation it will be important to analyze the possible friction between the HE governance institution and other institutional orders, as a result of such differing transitions.

The collision between institutional orders contributes to the stimulation of bigger changes that would decrease the friction. The reason why the friction causes change is that each of the orders generates incentives and opportunities, and defines repertoires of legitimate moves for political actions. When there is friction then these incentives, opportunities and repertoires point to different directions, while targeting the same set of actors and posing dilemmas that make conventional moves impossible (Lieberman 2002). Hence there is a need to align the different signals provided to the actors.

Yet Thelen (1999) adds that not all collisions lead to change, but only those that interfere with the institution's reinforcing factors (p. 400). In our case, just such a factor is represented by the rules of appropriateness, meaning that if the appropriateness of the HE governance institution points to a different direction than that of other institutional orders, friction will ensue. For example if the economic institution was transformed into a market oriented one, this would mean less direct state interventions. This could be in friction with the HE governance institution within which remained appropriate rules introduced during critical juncture that structured the relationship between the state and the university, in such a way that the state is the direct manager of the universities' funding and property. Being directly managed by the state makes it difficult for the universities to compete efficiently on the

market. In other words the universities receive two very different sets of signals from two institutional orders. One is to obey the strictly defined rules of the finance ministry within the HE governance institution, and the other is to be entrepreneurial and flexible in competing in accordance with the market economy institution.

What needs to be reiterated, in line with Hood (1998), in regard to **frictions** and **unwanted consequences** is that their power to delegitimize the institution has to be viewed as such by the authors of change and/or legitimate policy designers. Some phenomena can be recognized by these actors as frictions/unintended and reverse effects, while others cannot. In the latter case, neither frictions nor unintended and reverse consequences would delegitimize the institution in place, and hence there would be no need for institutional change.

2.2.2.2.2 Factors shaping the change

Once the legitimacy of the institution in place decreases, this opens up a space for institutional change that will enhance its legitimacy. One way to enhance the institution's legitimacy is to look at other political systems considered as exemplary for new models of institutions (Offe 1996; Olsen and March 2004). Another one is to respond according to national legacies.

Institutional change is often a result of responses both to the legacies as well as to the external models. Internationally promoted policies are translated into national level legislation (Gornitzka 2006). Campbell (2004) notes that policy translation takes place when new ideas arriving through diffusion combine with rather than replace existing local institutions (p. 163). As Gornitzka (2006) adds, policy translation means that the ideas are not simply diffused, i.e. the same solutions are not used for the same problems. Under the translation mechanism, actors translate ideas based on their frame of reference, which can for example lead to a certain solution taken from abroad being used for a specific domestic problem, which may be different from what the solution was created for (Gornitzka 2006).

The key factor influencing the way the institution will be changed is the perception of the authors of change and legitimate policy designers. The international models will be taken into account only if they increase the institution's legitimacy in the view of these actors. The models will be used in line with what these actors see as appropriate. What can make these actors more open to international models is when the new institution starts to structure their view of appropriateness, and this new institution is in line with the external models. The influence of the new institution can take effect through new experience (Olsen and March 2004), socialization, education or on-the-job learning (DiMaggio and Powell 1991).

Reform authors and legitimate policy designers can also become open to international models through generational change. New generations, with their new backgrounds and cultural expectations, can share a different logic of appropriateness concerning what the appropriate rules organized into an institution are (Oliver 1992; Offe 1996). The new appropriate institution can be more in line with the international models than with the institution introduced during the critical juncture.

However, cases may arise when the reform authors/legitimate policy designers do not see the international models as a suitable way of enhancing the institution's legitimacy. To address unwanted consequences and institutional frictions they may choose to increase the institution's legitimacy by simply removing the elements causing the friction or unwanted consequences, without changing the institution in line with the external models. For example, the finance ministry may relax some of its rules, allowing universities to be more entrepreneurial on the market. This way the HE governance institution will be more aligned with the market economy institution, but this process would not require the ministry to take the 'modernization agenda' into consideration. To deal with the reverse effects of academic oligarchy seizing power at the university, the education ministry may only need to introduce

concrete rules decreasing the power of oligarchs within university, while again not having to consider the ‘modernization agenda’.

If a new institution will be based on addressing unwanted consequences or institutional frictions rooted in critical juncture, then change will be influenced by institutional legacies in the attempt to move away from them. These legacies will differ across countries, because they depend on institutions designed during and after critical junctures, which are not the same (Collier and Collier 1991). Different institutions create different problematic points that need to be addressed in different ways. Specific earlier reform will require specific reactions later (Hood 1998). Simultaneously, the response to the historical legacies will depend on whether the authors of change and/or legitimate policy designers identify something as being an unintended/reverse consequence, or as being friction, as well as what they perceive to be the appropriate way of dealing with these problems (Hood 1998). If the views of authors of change and legitimate policy designers differ, then the concrete change will reflect the views of legitimate policy designers, as they have the final say in the policymaking process.

2.2.3 Summary of the analytical framework

To conclude this section, I summarize the basic line of the analytical framework, which I use for analyzing the cases of Lithuania, Romania and Slovakia. These three countries had a similar starting point, the post-1988 period, when they departed from a very centralized communist system of HE governance. One decade later they experienced comparable international influence in HE governance in the form of the ‘modernization agenda’. However, they translated it in very different ways. To explain these differences I use the analytical framework detailed above and summarized below.

The starting point of the analytical framework is that the policy translation of international models into national level legislation is influenced by a combination of historical

legacies and the logic of appropriateness structuring the behavior of the authors of change and legitimate policy designers. The historical legacies are rooted in the institution design period during and after the critical junctures, in this case, following the fall of communism. At that time I expect each of the countries studied to adopt a different approach in moving away from the communist central management of HE. Each of these approaches included some characteristics that later became problematic, and had to be addressed (unwanted consequences, institutional frictions). Hence, the first area to be analyzed in the three countries are the roots of legacies stemming from the end of the 1980s and beginning of the 1990s, and their possible impacts on the HE governance institution from the end of the 1990s, when the ‘modernization agenda’ started to be translated by the studied countries.

Secondly, the international models can be translated when the national institution in place becomes open to change. This happens when the legitimacy of the institution decreases in the view of the authors of change and legitimate policy designers. The decrease of the institution’s legitimacy can come about due to several factors: the behavior of the authors of change and legitimate policy designers starting to be structured by the new institution, the institution introduced during critical juncture producing unwanted consequences, or friction developing with other institutional orders.

Once the institution is open to change, international models may be translated. Yet there are several factors influencing this translation. Most importantly, the use of the international models will depend on which appropriate HE governance institution is structuring the behavior of the actors having a key role in policy design process, the authors of change and the legitimate policy designers. What is appropriate will influence whether the impact of institutional legacies will be viewed as negative and worthy of attention. It will also influence the way the problems identified should be solved, meaning how the international models should be used to solve them.

The appropriateness can be path-dependent, meaning that it will be based on the logic of appropriateness introduced during and after the critical juncture. However, what is appropriate can also change mainly as a result of a new institution structuring the behavior of the authors of change and the legitimate policy designers. Some appropriate rules constituting the new institution structuring actors' behavior can be in line with the internationally promoted 'modernization agenda', which can lead to translation of these rules into the national level institution. From the point of view of the final shape of the change, it is important which institution shapes the behavior of the legitimate policy designers having a decisive say on the adopted change, not to mention what they interpret as problems and solutions. Thus, the final area to be analyzed in the three countries is which HE governance institution structures the behavior of the legitimate policy designers, and what impact it has on the policy translation.

3. RESEARCH DESIGN

To address the research question formulated in the introduction, I employed qualitative methodology in a multiple case study. According to Tight (2003), qualitative methodology allows in-depth analysis of phenomena studied. This is important, because only with in-depth analysis could I fully understand which factors influenced the use of the ‘modernization agenda’, and under what circumstances. Secondly, qualitative research is well suited to explaining real-world puzzles, which was a motivating factor for the present dissertation. This approach is in line with historical institutionalism, which tries to shed light on surprising patterns while focusing on limited cases unified in time (Thelen 1999; Skocpol and Pierson 2002). The use of multiple case analysis in combination with qualitative research was also very important, because in accordance with Yin (2009), it allowed me to formulate a single set of “cross-case” conclusions. In other words, multiple case analysis made the results more robust, as it showed that the conclusions of the research hold for several different cases.

In what follows I describe in detail how I operationalized dependent and independent variables. Then I present the rationale behind the case selection, the research scope, and the methods used to collect and analyze the data. This is followed by a demonstration of the reliability, validity, and generalizability of my research. The research design subsection closes with a discussion of the ethical considerations. In this whole section as in other places in this dissertation when I use the term “institution”, I also refer to the specific rules forming it in line with the definition of the institution from the analytical framework by Olsen and March (2004). Thus for example if I talk about a change of the institution, this can also mean a change only of some rule(s) forming it.

3.1 Operationalization of variables

3.1.1 Operationalization of the dependent variable

The adoption of the ‘modernization agenda’ as an international model represents my **dependent variable**. As discussed in subsection 2.1, the ‘modernization agenda’ refers to a

new type of HE governance. HE governance is divided into three dimensions, covering 30 policies. Each of those policies can be influenced by the ‘modernization agenda’. I identified these 30 policies based on documents from the principal agencies promoting the ‘modernization agenda’; the World Bank, OECD, and European Commission, and on literature analyzing the translation of the ‘modernization agenda’ (for a complete listing of the 30 policies influenced by the ‘modernization agenda’ see annex 7). To analyze the use of the ‘modernization agenda’, I selected from the list of 30 policies three concrete policies that would represent each of the three dimensions of HE governance as defined in section 1.1: management within universities, university relations with the state, and the relations between university and wider society. To demonstrate the variation of the dependent variable, I describe below what it means when the ‘modernization agenda’ is used in a concrete policy representing one of the three dimensions, and converse cases when the ‘modernization agenda’ is not used, or only partially so. In other words when the dependent variable is not, or is only partly altered.

- Introduction of the **‘modernization agenda’ in regard to university management** was represented in this dissertation by the **concrete policy of university internal management and organization**. According to the ‘modernization agenda’, university management should be centralized, and decisions should be taken by leaders who are appointed by managers from the level above them, who implement the top managers’ policies (Bleiklie and Kogan 2007; Gornitzka and Maassen 2011; Leisyte 2014). In other words, both the selection process of leaders and the decision-making process are delivered top-down.

The ‘modernization agenda’ is not adopted, or only partially adopted, if certain characteristics of university internal management and organization are present, for

example if universities are loosely managed. This could be caused by a law prescribing university division into subunits (e.g. faculties, departments, cathedrae), which it treats as separate units (Leisyte 2014). The subunits function as separate units if, for example, they have their own financial autonomy ensured by law, the government approves their establishment, or the law codifies how the subunit is organized and managed. In this case, the central management of the university has less space to promote institution-level policies across the university. Another feature deviating from the ‘modernization agenda’ is if the university is managed bottom-up, and when central management is the aggregate of the interests of a university’s individual parts, which tend to defend their particular aims instead of fulfilling the goals of the university as a whole.

- The use of the **‘modernization agenda’ in terms of the university’s relation with the state** was analyzed through **policies of public funding and immovable property use**. The move towards the ‘modernization agenda’ in public funding use is represented in the present dissertation by the introduction of block grants and other forms of liberalization of funding use. The block grant is a type of financial allocation when the university receives public funding in one sum, and decides on its allocation, including the level of wages. It is not subject to line-item control (Fielden 2008). Other forms of liberalization of funding use involve possibility to keep and freely use budget surpluses and to generate income (Fielden 2008; Estermann and Nokkala 2009). In regard to public immovable property management, the ‘modernization agenda’ is used if the university has full ownership rights in deciding how it uses immovable property transferred from the state, including the possibility to sell or rent it without the direct intervention of government (Estermann and Nokkala 2009).

The ‘modernization agenda’ in regard to public fund and property use is not adopted, or is used only partially, if the state retains direct control in these areas. This can mean that the government has the power to decide how public financial resources should be used, and whether their use can be changed. In regard to funding this means that the budget is allocated in prescribed categories for cost items and/or activities, and if universities can make allocation decisions, they can only do so within strict limits. It also means universities cannot accumulate budget surpluses or the use of these surpluses is restricted. In terms of immovable property, the ‘modernization agenda’ is not applied if the state owns the property and decides about its use (Estermann and Nokkala 2009).

- The third dimension of HE governance was **the relations between university and wider society**, which in the ‘modernization agenda’ is expressed through the **introduction of external stakeholders into university management**. This manifests itself through the introduction of bodies where external stakeholders have the majority of votes (Santiago et al. 2008). These bodies have real power over a university’s strategic management, including choosing its leadership, taking decisions about university strategy, or approving the university budget (Sporn 2003). Conversely, if the university is managed in a more traditional way, not using the ‘modernization agenda’, then it is either run as a community of scholars (collegial organization, with elected leaders who are evaluated by peers as good scholars) or as a representative democracy (university run by bodies with elected internal interests’ representatives) (Olsen 2007).

The selection of the three policies, each representing a dimension of HE governance in line with the ‘modernization agenda,’ was based on three factors. Firstly, the policy had to represent a significant shift in HE governance, so it could be easily detected. Secondly, based on the data from desk research during the research design process, I selected policies in which

the countries diverged in their application of the ‘modernization agenda’. Thirdly, the policy had to be concise and well rounded, so that I could study it as one concrete policy item.

After the analysis of the interviews from all three countries, I realized that reformers in these countries used policies promoted by international organizations mainly to support the reform they proposed. The authors of reform introducing the ‘modernization agenda’ did not use the recommendations from these organizations to design the content of the policies. In defining the content of the reform policies, they looked at models from particular countries. Nevertheless, these models were in line with the ‘modernization agenda’ promoted by the international organizations. To understand the use of a certain foreign model, I compared the one that the reform authors interviewed mentioned as their inspiration for the policy adopted in the country.

3.1.2 Operationalization of independent variables

The operationalization of independent variables was not a straightforward process. As indicated in the analytical framework subsection, I commenced my research using actor-based approaches. The literature on interest groups and epistemic communities suggested characteristics of these groups that would make them influential in policymaking process. These characteristics I used as independent variables reflecting the importance of these two groups in regard to the dependent variable, the use of the ‘modernization agenda’. I tested these independent variables during interviews. However, after initial analysis of the data from Slovakia and Lithuania, I realized that these approaches have limited explanatory power in regard to the use of the ‘modernization agenda’. Thus, in line with Maxwell (1996), and due to new insights acquired during fieldwork, I had to adjust my research design, use different analytical strategies, carry out further sampling, and gather new data. In concrete terms, I redefined my analytical framework and built it on the logic of appropriateness and historical institutionalism. As detailed in the analytical framework, I have chosen to employ historical

and sociological institutionalism, more precisely the logic of appropriateness. This is because these two approaches addressed the shortcomings of actor-based approaches, namely, that they concentrate on the importance of national level institutions and the role of reform authors. Based on these two streams of new institutionalism, I defined **independent variables** influencing the use of the ‘modernization agenda’. The independent variables were grouped into two main categories, built on a combination of historical institutionalism and the logic of appropriateness:

- Appropriate HE governance model structuring the behavior of the authors of change

This factor influences whether the HE governance institution is open to change, and what is proposed as change.

- If the authors of change perceive the ‘modernization agenda’ as appropriate, then they view the HE governance institution in their country as not having legitimacy. Therefore, they propose change in line with the ‘modernization agenda’ that should in their view enhance the legitimacy of the HE governance institution. The ‘modernization agenda’ as a new type of institution could start to shape the behavior of the authors of change as a result of socialization, education, on-the-job learning, and new experience (DiMaggio and Powell 1991; Olsen and March 2004). This leads the actors to perceive the ‘old’ institution as inappropriate, and the ‘new’ institution, the ‘modernization agenda’, as appropriate.

- If the HE governance institution introduced during the early transition is perceived by reform authors to be malfunctioning, due to negative legacies, then it is also open to change because it has lost legitimacy. This is the case when the HE governance institution brings about, in the view of the reform authors, unintended or reverse consequences, or there is friction with another institutional order (Hood 1998;

Lieberman 2002). The more emphasis placed on one institutional dimension during the institution design phase, the more likely it is that unintended or reverse effects would appear later (Hood 1998; Bohle and Greskovits 2012). In the case of the malfunctioning of the HE governance institution, the ‘modernization agenda’ is used selectively to address the negative legacies (to eradicate unintended and reverse consequences, and institutional frictions) caused by the early transition institution.

Three important points need to be made in regard to the first two factors defined above. Firstly, both these factors can be present simultaneously. Secondly, the presence of any of these factors is more likely if there is generational change among the reform authors. The new generation has a different background and cultural expectations from the previous generation. This eventually erodes institutionalized norms and activities, because social actors generate, support and enact institutions (Oliver 1992; Offe 1996). Thirdly, while the legitimacy of the institution can decrease as a result of one factor (e.g., because of the new appropriate institution structuring behavior of reform authors), the change can be shaped by another factor (e.g. the need to respond to negative legacies). The change can also be shaped by the same factor opening the institution to change (e.g. negative legacies decrease the legitimacy of the existing institution, and the new HE governance institution is designed as a response to these negative legacies). Which of these takes place depends on what is seen as appropriate by authors of change.

- If the HE governance institution perceived as appropriate is path-dependent, then the proposed change builds on the HE governance institution designed during early transition. The early transition institution is more persistent if it was reinforced by the positive feedback mechanism (Skocpol and Pierson 2002). The positive feedback mechanism can either be functional (actors adjust their strategies to the institution in place and reinforce its logic) or distributional

(reinforcing the role of actors as legitimate policy designers) (Thelen 1999).

- Legitimate policy designers

This independent variable means that there are certain groups of actors whose voice has to be reflected in the adopted version of the policy, because it is considered appropriate. These actors are labeled legitimate policy designers. The impact of the legitimate policy designers is significant if their behavior is structured by the HE governance institution introduced during early transition, which is a different institution than the one shaping the behavior of the reform authors. Put differently, the HE governance institution shaping the behavior of the legitimate policy designers is path-dependent. In this case the ‘modernization agenda’ is not used, or it is used only selectively, while elements from the early transition are preserved.

One more characteristic of legitimate policy designers increases their importance in regard to the use of the ‘modernization agenda’. Based on the critical juncture concept, as defined by Collier and Collier (1991), these legitimate policy designers can more easily be mobilized if they are not institutionalized as part of a political party system, either during or shortly after the critical juncture. In other words, they are not part of the establishment. After being mobilized they would try to stop, or at least mitigate the reform efforts of the establishment they are opposing.

3.2 Case selection

My case selection was driven by the puzzle I decided to study, meaning that countries with a similar starting point of reform, which were under similar influence of international agencies, developed different HE governance models in the early 2000s. To study this puzzle, I decided to consider post-communist Central and Eastern European countries. The reason was that studying these countries allowed me to detect more easily what the starting point of the

reforms was. In this case I identified this point as being the fall of communism at the end of the 1980s. After identifying the starting point of the reforms, I looked at countries sharing similar characteristics prior to the reforms, as communist countries did not share the same HE governance (Leisyte 2014). I decided to select those countries which had in common highly centralized state control over HE at the end of the 1980s. This was the case for Slovakia, as during the period when it was a part of communist Czechoslovakia it was completely centralized, and decision-making power was in the hands of politicians (Devinsky 2000). Similarly in Lithuania, HE during communism followed the Soviet model, and was highly centralized and politicized (Leisyte 2002). Finally in Romania, the university law adopted in 1978 introduced different bodies at national level, which greatly centralized communist party power, especially that of its leader Nicolae Ceausescu, along with his wife Elena, over the university functioning (Sadlak 1991).

After 1989 all three countries decided to introduce university autonomy. In all three cases, the definition of HE governance in the 1990s was to a large extent in the hands of academics, so the same type of actor was involved in the process. The three countries were under similar international influence, with each of them receiving recommendations from the OECD and the World Bank. In addition, all three countries joined the European Union, and were therefore under the influence of the Lisbon strategy⁵, reflecting the active role of the European Commission in the area of HE governance.

Despite these similarities, I could see that the ‘modernization agenda’ was used differently in each of these countries, based on the HE laws adopted in the early 2000s. While

⁵ Lisbon strategy was approved by European Council in March 2000 and its key aim was for EU “to become 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.” (http://www.europarl.europa.eu/summits/lis1_en.htm, accessed 20 January 2016).

Slovakia used it mainly for changing the relationship between the state and universities (liberalization of fund and property use), Lithuania primarily concentrated on introducing external stakeholders into university management, thus changing the relationship of universities to wider society. Romania used the ‘modernization agenda’ principally in regard to the centralization of university management and internal organization. Each of the countries made changes in other dimensions of HE governance, more or less in line with the ‘modernization agenda’, and these changes also differed across countries. The variation in the use of the ‘modernization agenda’ across these three countries, coupled with the similar starting conditions and international pressures, meant they were well suited to tackling my research puzzle.

As the above description clarifies, I employed the most similar systems design for my case selection. This means that I selected countries that are similar in many ways, and allow the influence of a limited amount of independent variables to be revealed, while controlling for others (Peters 1998). In other words, this case selection allowed me to concentrate on the independent variables defined by my analytical framework.

3.3 Scope of the research

As already indicated in subsection 3.1.1, I analyzed only three out of 30 policies introduced by the ‘modernization agenda’, because these three policies represented each of the three dimensions of HE governance. This also means that I did not analyze the use of the ‘modernization agenda’ in other policy areas. Secondly, I only concentrated on the policy design and adoption stages of the policymaking process. Hence I did not analyze whether the ‘modernization agenda’ was also implemented. The final point is that this dissertation does not take a normative perspective in judging whether the reforms were inspired or not by the ‘modernization agenda’, and whether it improved or damaged HE governance. The reason is

that the aim of this dissertation was to understand the reasons behind the adoption or otherwise of the ‘modernization agenda’, rather than its effect on the quality of HE governance.

3. 4 Data collection and analysis

3.4.1 Data collection

To acquire the data, I used semi-structured interviews, and document analysis covering the changes from 1988 till 2012. To ascertain which change was adopted, I analyzed the laws on higher education and their amendments in each of the three countries studied. I also looked at reports from international organizations providing recommendations to the respective country. From these documents, I extracted information about the recommendations in regard to the three policies studied. This was complemented by analysis of laws and reports regarding particular country models that interviewees indicated as a source of ideas for changes. From these reports and laws, I selected only those parts indicated as models for some or all of the three policies studied. The international recommendations and documentation on individual country models provided me with information about foreign influence on the reform process.

I analyzed 97 documents altogether in all three countries; 32 in Lithuania, 17 in Romania, 48 in Slovakia. There are two reasons for my using a differing number of documents for each country. Firstly, I used more documents when the documents were available in languages I understood (Slovak, English). Secondly, the number of relevant documents also differed by country. The full list of these documents can be found in annexes 4 – 6.

The list of documents to be analyzed was drawn up in two steps. In regard to Lithuania and Romania, prior to my fieldwork I asked HE experts on the respective country to help me identify relevant legislation and international reports. In Lithuania, I consulted Liudvika Leisyte and Rimantas Zelvyas. In Romania it was Lazar Vlasceanu, Jan Sadlak and Adrian Miroiu. In Slovakia, I was familiar with most of the relevant legislation and reports, because I had been involved in HE policymaking there from 1996. The second step was that I learned

of important documentation, especially about the foreign models chosen by reform authors, during the interviews. This second step was the same for all three countries.

The second source of information was the semi-structured interviews, which allowed the exploration of topics in depth, and the discovery of new and unexpected findings (Esterberg 2002). This was a suitable tool, because it provided the opportunity to openly explore the role of different factors in the use of the ‘modernization agenda’. I conducted 121 semi-structured interviews; 49 in Romania, 40 in Lithuania, and 32 in Slovakia. The interviews were recorded and transcribed.⁶ A larger number of interviews was needed in Romania and Lithuania due to my limited prior knowledge of HE systems in these two countries, together with my lack of Lithuanian and Romanian language knowledge, and a lack of documentation in English (especially in the case of Romania). In addition, during my fieldwork in Romania I lost 10 recorded interviews due to technical failure, so I conducted further interviews to recover the lost information. In Romania and Lithuania I conducted the interviews during one period of time. In Slovakia, I delivered interviews in several waves, because as mentioned in subsection 3.1.2, following a preliminary analysis of data, I redesigned the analytical and research frameworks, which led to further sampling. During the follow-up visits to Slovakia I gathered the missing information on the definition of the early transition institution, an institution which created legacies influencing the use of the ‘modernization agenda’ almost a decade later.

The interviewees consisted of people who had either proposed or opposed the changes. The proponents of change included people from education ministries, parliament or from expert groups. The opponents of the change included academics from universities (mainly in the 2000s, when university autonomy was redefined) or representatives of the finance ministry

⁶Only two interviews were not recorded, because the interviewees did not agree to recording.

(in regard to public funding and property use). Change proponents and opponents differed depending on the policy, and there was variation across the countries. In each country, the authors of change and the opponents are specified for each policy studied, and throughout the time period studied. In addition to reform proponents and opponents, I also interviewed journalists, who offered an external view of the reform processes.

Similarly to the creation of the documentation list, interviewee selection was a two-step process. In Lithuania and Romania, I started by consulting the local experts already mentioned, in order to establish an initial list of interviewees. In Slovakia I defined this preliminary list based on my knowledge of the important actors in the HE sector. The second step was to develop the list of interviewees further, using the snowballing technique, meaning that initially identified interviewees indicated other important actors to be interviewed. The creation of the list of interviewees was quite a straightforward process, as in all three countries there was general agreement among the interviewees as to who the key actors were in influencing the changes studied. The full list of interviewees and their affiliation is in annexes 1 - 3.

I used the interviews for two purposes. Firstly, to gather data on what exactly changed. Secondly, to gain information on how the change took place. The interview protocols reflected these purposes. To gather information related to the first goal, I asked about what was changed in each of the three policies studied. I asked questions on what happened only in cases where I did not have enough information from the documentation or from previous interviews. In order to gather data on what influenced the shape of the change, I asked the following types of question to the authors of change:

- To understand which HE governance model they perceived as appropriate, I asked what change they proposed. The adopted change could be different from the one

proposed; yet the proposal reflects what the actors saw as appropriate.

- To reveal what the triggers for change were, and whether these were negative legacies (unintended/reverse consequences, institutional frictions), or a need to introduce new HE governance institution, I asked why the change was proposed.
- To see whether the appropriate HE governance model was influenced by international or foreign models (the ‘modernization agenda’), by path-dependencies from the early transition, and/or negative legacies, I asked about the source of ideas for the proposed change.
- To understand the possible significance of legitimate policy designers who were not reform authors, and whose behavior was shaped by path-dependencies, I asked how and why the proposal of the reform authors altered.

In order to gain a more complex picture of how the change happened, I asked the reform opponents questions covering the following areas:

- To help me identify the HE governance institution structuring their behavior, I asked what their opinion was about the proposed change, and what the shape of the respective policy they wanted to achieve was.
- To understand whether the opponents of the change were legitimate policy designers, meaning whether their view had to be incorporated into the final form of the adopted policy, I asked how they tried to influence the change, and why they were or were not successful in these attempts.

3.4.2 Data analysis

I analyzed the interviews and the documents through content analysis. I carried out data analysis in two major steps. The first was identifying what changes took place, and the second was studying how this change happened. In other words, during the first step I determined the

changes to the dependent variable, while in the second I looked at the role of the independent variables.

During the first step, I made an overview of specific changes in the three policies studied within the HE laws for each country, and in the case of changes related to property and funding use, I added relevant changes to specific laws dealing with these areas. During this step I concentrated on the manifested content of the documents (Esterberg 2002). If necessary, information from the laws was complemented by data from the interviews. Hence at this stage, interviews were used pragmatically to gather information not available elsewhere (Mason 2002). The overview of changes covered two periods. The first was the period of early transition (end of the 1980s – early 1990s), when the HE governance institution was designed after the fall of communism and reinforced by positive feedback mechanisms. For this period, I identified the characteristics of the three policies studied, and the legitimate policy designers whose views had to be incorporated into the final form of these policies. The second period (end of the 1990s and early 2000s) comprised the changes related to the use of the ‘modernization agenda’ that was changing the HE governance institution introduced during the transition. In this period, I identified shifts in the three policies studied. Then I compared these changes to the foreign models that reform authors mentioned as a source of their ideas. Based on this comparison, I described the differences between the models and the adopted changes. To identifying the relevant foreign models, I used mainly the information from interviews provided by the reform authors, or from the documents written by the reform authors.

In the second step, I concentrated on what Esterberg (2002) labels latent content, or the underlying meaning of the text, and in interviews I was interested in interviewees’ opinions. I analyzed the interview transcripts and documents with the aim of understanding

the role of the independent variables in regard to the use of the ‘modernization agenda’. To this end, I identified the following factors for each country and policy studied:

- The appropriate HE governance model structuring the behavior of the reform authors, and the factors influencing this model, including:
 - the role of negative legacies (unintended/reverse consequences, institutional frictions) and of the path-dependencies of the early transition HE institution
 - role of the new HE governance institution (the ‘modernization agenda’) structuring the behavior of the reform authors

I analyzed what the role of these factors was in stimulating change, as well as in shaping the change.

- The legitimate policy designers who had a decisive say in the adopted policies introducing the ‘modernization agenda’.

Once I determined these factors, I looked at how they interacted with, and influenced the use of the ‘modernization agenda’ in each country in regard to each policy. This is described in each case study (subchapters 4.2.2, 4.3.2, 4.4.2) for each policy. Following on from this, I defined patterns common to all three countries, which are discussed in subchapter 5.1.

3.5 Reliability, validity, generalizability

In my research, reliability was ensured by concentrating on how accurately my research methods produce data (Mason 2002). To do so, during each interview I asked several questions about one factor studied, and hence I could assess the factor in question more accurately. In addition, I asked several interviewees about the same factor, only using the information if several interviewees confirmed it.

Validity of research broadly means that the logic of a method is well-suited to answering the research question (Mason 2002). Both semi-structured interviews, as well as content analysis of documentation, were suitable methods, because they allowed me to be open to unexpected conclusions. This was important, as I did not know ahead of starting my fieldwork which of the factors defined would influence the use of the ‘modernization agenda’, and in what specific ways. Less structured methods enabled me to explore these issues. In addition, since I needed to understand what factors structured the behavior of actors proposing and opposing the reforms, I considered it advantageous to explore their opinions about the policy design process through the interviews and documents reflecting their views (for example, articles written by them).

I secured more specific validity by attending to the credibility of the descriptions, explanations and conclusions (Maxwell 2005). I used three of Maxwell's (2005) techniques to achieve this. Firstly, triangulation, which increased the validity of my data by collecting information from a diverse range of individuals (ministry employees, MPs, academics, journalists, student representatives, etc.) and by combining different methods, namely semi-structured interviews and document analysis. This reduced the risks pointed out by Maxwell (2005) that my conclusions would reflect systematic biases, or limitations of a specific data source or method. Secondly, I ensured a rich source of data by conducting and analyzing dozens of interview transcripts and documents. The data is detailed and varied, as a result both of the transcripts and the quantity and range of respondents and documents. Hence, I avoid having only data supporting uniform incorrect conclusions, and making observations supporting my possible prejudices and expectations. Thirdly, respondent validation (Maxwell 2005) increased the validity of my research, meaning that once I finalized the text on each country, I sent it to a selected group of interviewees (about 2 – 4 people in each country) to solicit their feedback on the data and conclusions. These were the interviewees who had the

most complex knowledge of the reforms studied. Respondent validation was a very helpful exercise, both in regard to increasing data accuracy, and avoiding misinterpretation both of what interviewees said and their perception of what happened.

My research also allows for the generalization of conclusions. My conclusions are characterized by internal and external generalizability (Maxwell 2005). Internal generalizability means that the conclusions can be generalized within one setting. In the present research, I demonstrated that my conclusions about the factors behind the use of the ‘modernization agenda’ hold across three policies within one country. External generalizability goes beyond one setting (Maxwell 2005). In my research, I came to similar conclusions about the role of factors influencing the use of the ‘modernization agenda’ across the three countries. Having similar conclusions for the three countries suggests further extrapolation of the results to other settings as well, meaning different policies and different countries. However, as suggested in my concluding subchapter (5.3), this would require further research.

3.6 Ethical considerations

My research prompted several ethical considerations. Firstly, I ensured that interviewees participated voluntarily in my research. Then, I requested their informed consent (Mason 2002). This means I informed interviewees in advance, usually by email, of the aims of my research, and the topics the interview would cover. At the beginning of each interview I repeated this information, and asked interviewees whether I could record the interview. I only recorded it with their full agreement. I informed interviewees that I would use the information they provide in my dissertation. However, I told them the information would be used anonymously, and it would be impossible to associate ideas in the dissertation with one concrete interviewee. All interviewees agreed to this procedure, and some even offered to be cited. Nevertheless, I did not take up such offers. Revealing the authors of some ideas could

make it easier to detect the authors of other claims, and thus decrease the anonymity of other respondents. Anonymity is further ensured by the numbering of interviewees denoted in the text not matching their order in the list (annexes 1- 3). In some cases, I was asked to stop recording for part of the interview, and not to use the information I was given directly. I always respected such requests.

The final ethical consideration concerns my interests and values in relation to the research (Mason 2002). At this point, it must be noted that I was on the national student union (ŠRVŠ SR) in Slovakia during the preparation of the Law on higher education adopted in 2002, and I participated in this process to some extent. Hence, I decided to interview a student union colleague who was very active in law preparation, and I used his answers to represent the role and views of the student union. Furthermore, during the preparation of the amendment to this law, adopted in 2007, I was part of an NGO, the Slovak Governance Institute, and contributed to public debate on this amendment. But I had no influence on the preparation and adoption of this amendment.

4. CASE STUDIES

4.1 Introduction to case studies

The case studies, together with the final chapter, form the main part of the dissertation. The aim of these parts is to assess to what extent and in what way the proposed analytical framework helps to understand the differing use of the internationally promoted ‘modernization agenda’ for HE governance in the three countries studied; Lithuania, Romania, and Slovakia. The cases are presented in that order. Certain characteristics are common to all three cases.

Each case is divided into two main parts. Firstly, the institution design phase which immediately followed (in the case of Lithuania, happened alongside) the change of the communist regime (1988 – 1996). The aim of the first part is to outline the appropriate HE governance institution introduced in early transition, which had the potential to produce legacies influencing later reforms translating the ‘modernization agenda’.

The first part starts by presenting for each case the key events that took place and led to the building of the early transition HE governance institution. This includes information on the availability of international models in the policymaking process. This is followed by a description of how the HE governance institution was designed in each of the policy areas studied in the present dissertation: internal university management, public funding and property use, and participation of external stakeholders in university management. This part concludes with the interpretation of the data through the analytical framework.

The second part describes and analyzes changes to the HE governance institution made using the ‘modernization agenda’. These took place around the late 1990s and early 2000s. The goal of this part is to analyze how the ‘modernization agenda’ was translated into national level legislation in the three policies studied, and what the role in this process was of the

legacies from the early transition, as well as of the rules of appropriateness shaping actor behavior during the translation of the ‘modernization agenda’.

The second part is divided into two main sections. Firstly, a brief general overview of reforms introducing the ‘modernization agenda’ is provided, followed by a detailed discussion of the changes in each of the three policy areas studied. In the final section of each case there is an interpretation of findings as seen through the analytical framework, which also identifies common patterns across policy areas.

The general overview of the reforms and the changes in each policy area have similar structures. These sections start by introducing the aims of the reform, providing information on what was seen as appropriate by the authors of change. Then the change is presented so that the reader can understand what exactly was done within the particular reform in the three policies studied. This is connected to a presentation of the key actors proposing and opposing the changes, and of the policymaking process leading to (non)adoption of a change. The description of the actors further expands on what the authors of change saw as appropriate. It casts further light on which actors were legitimate policy designers and what they promoted as appropriate. What follows is a description of how the authors of change used the international recommendations and the models from other countries. Each policy area concludes with an interpretation of the data as seen through the analytical framework, reflecting on why and how certain changes happened.

Each country case study starts with the most important change introducing the ‘modernization agenda’, as viewed by the authors of change. Hence in Lithuania and Romania I start with the introduction and empowerment of external stakeholders in university management, while in Slovakia I start with the liberalization of public fund and property use.

The reason is that changes in the most important areas influenced changes in the other policy areas.

While reading the case studies it is important to bear in mind that when I use the term “institution”, I also talk about the specific rules forming it in line with the institution’s definition by Olsen and March (2004). Hence a change/influence of the institution can also mean a change/influence only of some rule(s) forming it.

There are several important points that need to be made prior to the analysis of the cases. Firstly, in each country I discuss various foreign and internationally promoted models which are translated by the analyzed country. Either these models were chosen by actors from the respective countries, or they were prepared specifically for the country in question, which is why the influence of these concrete models is analyzed. Secondly, I only analyze the translation of international and foreign models for the three specific policies studied in the present dissertation; centralization of university management, liberalization of fund and property use, and the introduction of university boards. There were other models used for other policy areas which are not studied here. Thirdly, even though the ‘modernization agenda’ was promoted by supranational and international organizations, the three countries studied frequently used policies from another country or a few countries as models, and not recommendations from bodies such as the World Bank and the OECD. The models that were selected by my case study countries originated from countries that were more advanced in applying the ‘modernization agenda’ in the respective policy area.

There is a second important point to be made in regard to supranational efforts. It is important to mention that all three countries joined the Bologna process at its very beginning in 1999.⁷ Yet this process did not have an impact on the changes in the three policy areas

⁷ <http://www.ehea.info/members.aspx>, accessed 25 February 2016.

studied in the present dissertation, although it impacted on other areas of HE in all three countries.

The differing length of the case study descriptions is a result of the varying amount of activities and changes that took place in the respective countries at national level.

The final point is more technical. In each country I use the same name for ministries responsible for HE, even though they were called by different names, and were changed several times in each case. These ministries are called in the text Ministry of Education (MoE). The same goes for the ministries responsible for allocation and regulation of fund and property use. These are referred to as Ministry of Finance (MoF). My reasoning behind this simplification is that it makes it easier for the reader to follow the text.

4.2 Lithuania

4.2.1 Early transition in Lithuania

In Lithuania changes in HE and the wider society began in the late 1980s when Mikhail Gorbachev tried to liberalize the Soviet economy and political system, and introduce some level of decentralization. In Lithuania education was part of reform efforts from 1988 (OECD 2002). As part of the education reform process, universities started to redefine their statutes, and by 1989 most universities had proposed new statutes (OECD 2002; Zelvy's 2003). In the early 1990s further changes in society (the country became independent) and HE followed.

Five important events took place at the end of 1980s and in the early 1990s which contributed to the design of the new post-communist HE governance institution in Lithuania: the definition of statutes by universities from the end of the 1980s, the withdrawal of HE and research from MoE control, a new Law on Science and Studies (number I-1052) effective from 12 February 1991 (1991 Law), the enacting of university autonomy into the Lithuanian Constitution adopted in 1992,⁸ and the first ruling of the Constitutional Court from 1994 in regard to university autonomy, and the limitations in terms of the public property universities administer.

Until the 1994 Constitutional Court ruling, all policies were aimed at the introduction or reinforcing of university autonomy in regard to management and internal organization, meaning that the universities became independent from their environment. In addition, early-transition policies were fully in the hands of university academics and a group of young scientists gathered within the Union of Lithuanian Scientists,⁹ whose primary goal was to move away from the distortions caused by the communist Soviet system. (Lithuanian interview no. 32).

⁸ <http://www3.lrs.lt/home/Konstitucija/Constitution.htm> (accessed April 10th 2013)

⁹ The Union of Lithuanian Scientists was established in 1989 by researchers from Vilnius University, Vilnius Engineering Construction Institute and Kaunas Institute of Polytechnics (Slizys 1994).

4.2.1.1 Events leading to design of early-transition HE governance institution

Statutes of universities 1988 – 1989

The changes in Lithuanian HE started at the end of the 1980s, with universities defining their statutes. This was an act of universities becoming independent from central state power in Moscow and from Lithuanian government structures. From the point of view of the analytical framework, this act facilitated two developments. Firstly, rectors and academics became authors of change and legitimate policy designers in the area of university internal management and organization. Secondly, new appropriate rules in regard to university management introduced at this stage stipulated that universities should be self-governed and autonomous from government in regard to internal organization and management.

Withdrawal of HE and research from MoE control

From 1966 the Ministry of Education of Soviet Lithuania governed Lithuanian HE (Leisyte 2002). In 1990 the new Lithuanian government, formed after the first free elections, decided to redesign HE governance and research sectors (Lithuanian interview no. 32). The key result of this effort was that HE and research were taken away from MoE control, and became governed by the newly established Department of Science and Studies, which was subordinated to the prime minister (Lithuanian interview no. 32). What is also important is that the power over HE was not concentrated in one organization (the new Department) but was shared with other bodies; parliament, government and the MoF. A distributed decision-making process decreased the power of state organizations over the universities.

The withdrawal of universities from MoE control and distribution of power were important for two reasons, from the analytical concept perspective. Firstly, they contributed to the introduction of self-contained universities as an appropriate management model, especially with regard to being distanced from the MoE's influence. Secondly, these changes were, in regard to HE, orchestrated by rectors who became both authors of change and legitimate policy designers in the area of university relations with external stakeholders.

The Law on Science and Studies from 1991

The 1991 Law replaced Decree 64/1969 on universities in the USSR (1969 Decree), which was the last communist legislation regulating HE in Lithuania. The key aims of the 1991 Law included the introduction of autonomy, academic freedom, self-governance of research and universities, and multi-channel funding of research¹⁰ (Slizys 1994). According to one academic participating in the law design, this law was about minimal regulation of universities (Lithuanian interview no. 12). The 1991 Law was prepared by the Union of Lithuanian Scientists (Lithuanian interviews no. 12 and 32).

In regard to the design of the HE institution, it is important to note that the 1991 Law preparation and its content went in the same direction as the previous two events. Academics and scientists from research institutes took on the role of authors of change, and perceived self-governed universities to be appropriate. Self-governance meant that universities should define the rules of functioning.

Enacting university autonomy into Lithuanian constitution in 1992

The Lithuanian constitution was adopted in October 1992 by referendum (Lithuanian Constitution 1992). The main aim of the new constitution was to define the functioning of the newly independent Lithuania. Hence the issues most discussed during the drafting of the constitution concerned the organization of the state, and the division of power between different bodies (Lithuanian interview no. 11). The following quotation aptly illustrates this situation:

There were big debates about various provisions in the constitution but mostly these debates were related to the powers of the parliament and the president and **nobody really cared much about many other provisions including provisions related to the universities** (Lithuanian interview no. 14, p. 9) [emphasis added].

¹⁰ Other priorities of the law, which are outside the scope of this dissertation, included: integration of research and HE, orientation of science towards the needs of Lithuania, reform of Lithuanian Academy of science in the direction of western models, a new system of scientific degrees and diversity of research institutions (Slizys 1994).

A group of experts prepared the constitution. The final drafting was done in a hurry, so the new country could have this foundation document of its legal framework ready as soon as possible. As a result, certain specific areas not viewed as key, including HE, were introduced based on suggestions from interest groups representing the relevant area. In addition, these issues were defined broadly, and left to the later interpretation of the Constitutional Court (Lithuanian interview no. 14). The importance of more general issues concerning the definition of the legal framework of Lithuania, along with an openness to suggestions from specific interest groups, reinforced academics' influence over the appropriate rules for university management through the Lithuanian constitution.

Ruling of Constitutional Court 1994

The last important event from the early 1990s was the Constitutional Court's ruling from 27 June 1994 on the limitations to university autonomy in regard to property use. The details of this decision are discussed below, especially with regard to liberalization of funding and property use. Regarding the general implications of this decision it is important to note that with it, the Constitutional Court began to interpret university autonomy. In other words the Constitutional Court effectively became a legitimate policy designer in terms of university relations with the external world, specifically in the area of property use.

Lack of international influence

Neither international nor foreign models were used in defining the content of HE governance changes in the early 1990s. The lack of foreign model use was somewhat surprising since the academics from the Lithuanian diaspora in the US were quite active in this period at the national level (during the design of the 1991 Law), as well as at university level. This was especially evidenced by their participation in re-establishing Vytautas Magnus University in

1989, where programs and experience from Western universities were utilized (OECD 2002).¹¹

4.2.1.2 Early transition HE governance institution in Lithuania

Changes to the university internal management

Before the change of the regime universities in Lithuania were internally divided. The internal division was formally secured by the 1969 Decree, which had defined the division of universities into faculties organized around specializations or type of study and into discipline based cathedrae as subunits of the faculties (Council of Ministers of the USSR 1969).

The first moves toward new rules of appropriateness in regard to the internal organization and management of the universities were taken at the end of 1980s when the universities defined their own statutes. As result it became appropriate that this area was up to the university. The 1991 Law reinforced the appropriate rules introduced at the end of 1980s. The 1991 Law represented in fact what Thelen (1999) calls a functional positive feedback mechanism as the authors of the change reinforced the logic of the system introduced earlier (end of 1980s).

Lack of liberalization of use of money and property use

In the early 1990s there was no major change in regard to fund and property use. The two areas remained directly managed by the MoF, even though the 1991 Law transferred the administration of property to the universities who became its administrators, while the state remained the property owner. The interviewees offered several reasons for the limited changes in these areas. Firstly, some academics did not see change to funding as important (Lithuanian interview no. 39). Secondly, the strict regulation of funding was perceived as appropriate, and was not considered a compromise of autonomy (Lithuanian interview no. 32). In the early 1990s, the academics understood autonomy mainly in terms of academic and organizational

¹¹ Vytautas Magnus University was a national university between 1922 and 1940. The Soviet government closed the university in 1950. In April 1989, 200 scholars from Lithuania and 25 Lithuanian-born scholars from other countries met in Kaunas and agreed on the re-opening and re-building of the university (Avizienis 1994).

freedom. Thirdly, rectors did not demand transfer of property at that time, as it was too early and there were other problems to be solved (Lithuanian interview no. 13).

Furthermore, the Constitutional Court in 1994 reinforced the idea that universities are not owners of the property they use, and that it belongs to the state, which has the right to decide on it. The Constitutional Court was asked to interpret whether it was constitutional for teachers living in dormitories to take ownership of the apartments against the will of the university managing those apartments. This privatization process meant that the teachers would thus gain ownership of the apartments they rented from the university. The rationale for why such a process should be constitutional was that under the Law on Privatization of Apartments, Lithuanian citizens were allowed to take ownership of state-owned apartments, which were rented by these people from the state during and after communism (Constitutional Court 1994).

Vilnius University, whose dormitories were in question, objected that such a process would be against the provision of the constitution stating that universities are autonomous. A more precise definition of autonomy was written into the Vilnius University statute. The statute had the power of law and was adopted by the Lithuanian parliament, and it guaranteed the inviolability of Vilnius University territory and its buildings. According to the statute, only parliament could transfer the buildings to another entity, while taking into account the opinion of the university's council and senate. In Vilnius University's view the right to utilize its property was part of its autonomy, and hence it was free not to allow the teachers to take ownership of apartments managed by the university (Constitutional Court 1994).

The Constitutional Court's view was different and Vilnius University lost this case. The Constitutional Court ruled that the legislature has the power to determine which spheres of activities are independent from governmental institutions' influence and control. University autonomy was deemed to be such a sphere, which meant freedom in teaching, science, and

self-government. However, according to the court, gaining ownership of the flats occupied by permanent university staff did not violate these freedoms. On the contrary, it was in line with the constitution, because teachers had the same rights as other Lithuanian citizens who could take ownership of public apartments in which they lived. And the property used by the university was, according to the Constitutional Court, state property, and universities did not possess ownership rights over it (Constitutional Court 1994).

To conclude, in the early 1990s it remained appropriate that property and funding use was directly managed by the state. These rules were reinforced in regard to property use by the 1994 Constitutional Court ruling, an example of a functional positive feedback mechanism as defined by Thelen (1999). Simultaneously, there were no advocates for liberalization of funding and property use (not even among the academics) while the MoF preserved its role as legitimate policy designer in these areas. This happened because all the actors still recognized this role of the MoF. In addition, the Constitutional Court became a legitimate policy designer regarding property use by universities, and more broadly, in defining the relations of universities with external stakeholders, especially with the MoF.

Absence of external stakeholders

In the early 1990s there was no proposal to introduce external stakeholders into university management. Indeed four out of five events described at the beginning of this chapter led to the designing of an appropriate model of university management which entailed being closed from the outside world, especially from the MoE.

Firstly, the university statutes initiated and designed by the academics at the end of the 1980s made clear that universities were to be self-contained entities independent from regulation by the MoE. The second development in this same direction was the withdrawal of HE from MoE control, and the distribution of state power over the universities. The withdrawal of HE from MoE control was introduced through the establishment of the

Department of Science and Studies. This was initiated by the Union of Lithuanian Scientists, who believed that research and HE can best be managed by scientists themselves. As one of the former Union members noted: “The reason was to give full autonomy to higher education institutions and research institutions hoping that scientists will find the best way to increase quality, to orientate research towards needs of Lithuania...” (Lithuanian interview no. 32 p. 2). After establishing the Department, the scientists’ union nominated the Department’s leadership, which was accepted by the prime minister. Thus, the scientists and academics not only designed but also managed the structure that was responsible for governing their sectors.

The university rectors also eagerly supported the withdrawal of HE from MoE control. The reason was that they did not want to be managed by a very young education minister who had just finished his PhD. A high-level representative of the MoE recalled this situation:

The minister was at that time 26 and all the rectors of universities, not angrily but passionately reacted to the fact that such a young person was appointed. So **there was a strong lobbying to separate universities from the regulation of the ministry** [of education]. It has happened. (Lithuanian interview no. 11 p. 1) [emphasis added].

The department responsible for HE and research was, up until 2002, abolished and re-established several times. Most of the time the department was not directly part of the Ministry (1990 – 1994, 1998 – 2002) (Zelvys 2003). It was officially under the MoE’s control between 1994 and 1998, yet the MoE’s powers over the universities remained non-existent, according to one of the department’s former employees, due to the 1991 Law in place, which did not allocate powers to the MoE over universities (Lithuanian interview no. 32). The 1991 Law did not even contain a reference to the MoE, further confirming the MoE’s weak position with respect to the universities.

As already mentioned, the power over HE was not only withdrawn from MoE control, but it was also distributed among several collective bodies, which meant that the state had only limited power over universities. The department responsible for HE and research shared

powers over HE with the government, parliament and the MoF. The government became responsible for allocating budgets to individual universities, based on the overall budget for HE and science approved in parliament (Lithuanian Parliament 1991). The MoF preserved power over regulation of university property and funding.

The powers that parliament gained included the possibility to decide on the establishing or abolishing of universities, based on government proposal, and it became responsible for approving university statutes to be adopted by the university senates (Lithuanian Parliament 1991). The statutes covered the division of powers of the university governing bodies, and the composition of these bodies. Thus parliament could influence internal organization and management structures of the universities. However, according to the interviewees there was no case when the parliament did not approve a proposed statute. The reason for this may be that the rectors had at that time very close relations with MPs across the political spectrum, as a lot of the MPs came from academia. Therefore the MPs did not take decisions that would go against rectors' interests. The power of parliament, as opposed to the education minister, over the establishing or abolishing of universities was viewed by the rectors interviewed as a way of ensuring university autonomy, because the minister had no direct control.

The division of powers over the HE sector across four bodies (Department of Science and Studies, government, parliament, and the MoF) made the governance of HE relatively loose for two reasons. Firstly, power was distributed among several bodies. Secondly, most of them were collective bodies, and each decision required an agreement of a group of people rather than just the decision of one person; the education minister. Such loose power at the state level meant more freedom for universities.

The withdrawal of MoE control, and the division of that control among several bodies, had an important implication for the design of early-transition appropriate rules structuring

the relation of universities with the outside world. It reinforced through a positive functional feedback mechanism, as labeled by Thelen (1999), the appropriate rules for university relations with external stakeholders, especially the MoE, who were to have only very limited influence on university organization and management. Put differently, universities were to be self-managed.

Thirdly, the 1991 Law contributed to closing the universities from the outside world. In contrast to the 1969 Decree that preceded it, the 1991 Law represented a shift from external top-down management by the communist party, to bottom-up management by academics. This included limiting the power of the state, and replacing top-down university management appointment with bottom-up elections. In concrete terms, the 1969 Decree stated that the ministry responsible for HE shall appoint the rector and most of the vice-rectors. The rector then managed the university, including appointing vice-deans. The 1969 Decree also defined the roles of the faculty deans.

In 1991 Law, powers over universities were substantially changed. The law assigned to universities the power to design their management in such a way that the state lost its influence on designing management structures through the law. The 1991 Law defined in only very general terms the managing bodies within universities, along with stipulating that their elections be organized bottom-up. All the members of the university community with scientific or academic titles elected the senate. The university senate was the highest decision-making body, which elected the rector and approved vice-rectors. The internal organization of the universities, and appointment or elections of managers of lower level units, were to be at the discretion of universities (Lithuanian Parliament 1991).

What is interesting here is that the authors of the 1991 Law were aware of successful US systems where the management of universities included boards with external stakeholders involved in rector selection. These public university boards were appointed by a governor.

The knowledge of these systems mainly came from the members of the Lithuanian diaspora in the US universities who were participating in the preparation of the 1991 Law. Yet the 1991 Law authors decided not to use this model. They introduced self-governance, with rector elections. One of the law's designers explained this as being a result of a low level of trust in bureaucracy, inherited from communist times. They believed this would impact on the rector's appointment if they followed the US model. In fact, during the design of the 1991 Law, the members of the US diaspora supported and promoted the ideas of Lithuanian academics, and the law stipulating significant autonomy for universities was accepted, thanks also due to this support (Lithuanian interview no. 32). From the conceptual point of view, the 1991 Law reinforced through a functional positive feedback mechanism the university self-governed management model introduced in the late 1980s, whereby the MoE and other external stakeholders should not influence university internal organization and management.

The final event from the early 1990s that contributed to closing universities from external influence was the 1992 introduction of university autonomy into the constitution. Based on the interviews, this idea was initiated and publicly supported by university rectors, especially the rector of Vilnius University; Rolandas Povilionis (Lithuanian interview no. 11). The rectors could propose this because the authors of the constitution were open to suggestions from very specific interest groups, such as HE. What was meant by university autonomy was not clearly defined, but according to one of the constitution authors, there was a general understanding that universities should be protected from the political interference they experienced under the Soviet government (Lithuanian interview no. 14). This was mainly felt in the areas of teaching, science and self-management (Constitutional Court 1994). In addition, the principle of autonomy was introduced in other sectors, such as media or justice. So, the introduction of autonomy for universities was, according to interviewees from both

academia and from the MoE, part of a more general process of moving away from direct state control.

From the point of view of the analytical framework, two important points related to the introduction of university autonomy into the constitution are highlighted. Firstly, it reinforced the appropriate rules of university management, decreeing it to be closed from external influence (another example of a functional positive feedback mechanism as defined by Thelen (1999)). Secondly, by enacting university autonomy into the constitution, the Constitutional Court became a legitimate actor, interpreting what autonomy means and when the laws infringe upon it. The Constitutional Court became one of the legitimate policy designers regarding university relations with external stakeholders.

4.2.1.3 Interpretation of the findings through the analytical framework

The critical juncture in Lithuania meant a departure from the old HE governance institution. In some areas (university management and internal organization, relations of university with the external actors) the early transition HE governance institution was designed, as Hood (1998) would say, based on a reaction to the preceding institution in place. The changes introduced in these areas were about moving away from the communist central management of HE. Simultaneously, in line with March and Olsen (2004), the early-transition HE governance institution reflected what was seen as appropriate by the authors of the change.

The appropriate management model introduced at the end the 1980s entailed the establishment of self-governed universities, where it was not appropriate for the MoE or another external body to intervene in their management or internal organization. Freedom in both of these areas was perceived as a cornerstone of university autonomy. University rectors and scientists from research institutes introduced these changes. The appropriate management model of universities also stipulated that public fund and property use was not a part of university autonomy, and both these areas should continue to be directly managed by the state, or in concrete terms, by the MoF. This was accepted by the academics leading the changes.

The newly-introduced appropriate HE governance institution was reinforced by functional positive feedback mechanisms, produced by; taking universities away from MoE control, academics leading the changes accepting the role of the state (MoF) as owner of the funds and property administered by the universities, the 1991 Law, enacting university autonomy into constitution, and by the 1994 Constitutional Court ruling on state ownership of the public property administered by the universities. The last two events also meant that the Constitutional Court became a legitimate policy designer in the areas of university internal organization and management, university relations with external stakeholders, and in the area of property use by universities.

4.2.2 The modernization reforms in Lithuania

In Lithuania there were two key waves of reforms that incorporated translation of the ‘modernization agenda’ into national level legislation. The first was the Law on Higher Education VIII-1586, adopted on 21 March 2000 (2000 Law) and its amendments adopted in 2001 - 2008. The second was the Law on Higher Education and Research XI – 242, adopted 30 April 2009 (2009 Law) and its amendment from 2012 (2012 Amendment). Both of these reform waves were characterized by increasing involvement from the MoE in defining changes to HE governance, and by attempts to open universities up to the needs of society.

4.2.2.1 The first reform wave 1998 - 2008

The first change in the first reform wave introducing the ‘modernization agenda’ was the 2000 Law. One of the key goals of the 2000 Law, prepared in 1998 - 2000, was according to the former high-level MoE representative interviewed, opening HE up to the outside world (Lithuanian interview no. 18). This was intended to address several problems. Firstly, to balance the extensive autonomy of universities introduced in the early 1990s with accountability (Lithuanian interview no. 32). Secondly, to deal with a lack of skills of university graduates perceived by employers to be relevant to the labor market (Lithuanian interview no. 18). Thirdly, it would give rectors greater capacity to reform the inefficient

internal organization of universities. Under the existing system, rectors were elected by and accountable to the academic senate formed by professors and faculty deans, who would not agree to changes that could influence them negatively, even if they seemed necessary for the university to change. This tie between the rector and the academics fighting for their personal interests had to be cut (Lithuanian interview no. 24)

The opening of HE to the outside world was supposed to be facilitated by changes to university management, through the introduction of boards with external stakeholders, and through introducing colleges¹² as more vocationally oriented HE organizations. The involvement of external stakeholders, namely of the MoE, into universities was also affected by increased regulation of the HE sector by MoE bureaucrats.

The 2000 Law also introduced block grant funding providing greater freedom in how universities used their funds. In later amendments to the 2000 Law some of this freedom was removed. The 2000 Law and its amendments did not introduce substantial changes in the use of public property and university internal organization and management.

4.2.2.1.1 Key actors involved in the 2000 Law preparation

There were several groups of actors who were instrumental in the preparation of the 2000 Law, in stark contrast to the overwhelming dominance of academics in shaping higher education policy during the transition years. These included bureaucrats from the Department of Science and Studies; politicians (mainly the education minister, chair of the Education Committee of parliament, and politicians in government and parliament); rectors of the

¹² The colleges had to some extent different regulations from universities. They were established based on transformation of some vocational education and training colleges that provided post-secondary training in practical subjects (Lloyd 2000). However, as the other two countries studies did not have such college sectors, I do not analyzed colleges in Lithuania, so as to ensure that the data are comparable across the countries.

universities; Constitutional Court; and in the area of public funding and property use, the Ministry of Finance and the National Audit Office.

The 2000 Law was prepared by bureaucrats from the Department of Science and Studies, who lacked political backing for their efforts by the education minister, Platelis. The education minister did not take a strong lead in reform, with the exception of specific areas he perceived as key, such as the introduction of colleges. The lack of the minister's leadership can be explained by two factors. Firstly, according to one of the high-ranking bureaucrats, HE and science were not the key issues for the minister and government in the late 1990s (Lithuanian interview no. 24). Secondly, at the time of the 2000 Law's design the Department of Science and Studies was not part of the MoE,¹³ which lacked authority over HE. Thus the education minister probably did not feel he had full ownership of the reform process, and therefore did not back the law politically.

The key opponents to the 2000 Law who influenced its final form substantially (especially in regard to the newly-proposed boards) were the university rectors, represented by the Rectors' Conference. The relationship between the bureaucrats and rectors was antagonistic. The bureaucrats perceived rectors as being resistant to all the proposals (Lithuanian interview no. 18), while the rectors viewed the bureaucrats and the education minister as wanting to regulate everything through the new law (Lithuanian interview no. 13). Even though the rectors did not participate in the writing of the law, as academics did with the 1991 Law, they influenced it quite substantially once it was drafted. The Rectors' Conference, together with the Science Academy, reacted negatively to the draft of the law submitted for public debate in December 1998. The main problem for the rectors was the restriction of university autonomy. As result a committee was established under parliament's Committee

¹³ The Department was at that time responsible for HE, while it was only affiliated but not belonging to MoE (Lithuanian interview no. 32).

on Education, Science and Culture,¹⁴ which produced in February 1999 a revised draft of the 2000 Law (Thomas 2001). This proposal was, in regard to the composition and role of the university boards, still being fine-tuned in negotiations between rectors and MoE representatives.¹⁵ The final draft of the Law was submitted to parliament in May 1999, and it represented, according to the majority of the interviewees, a compromise between the education ministry and the rectors' requirements.

One of the reasons why the rectors were quite successful in terms of influencing the shape of the Law submitted to parliament, was that at that time HE did not figure highly on the government's agenda, and the education minister was not a reform leader (Lithuanian interviewee no. 26). In addition, the rectors had many ties with politicians across the political spectrum as is captured in the following quotation:

Till 2000 the parliament was run by the conservative academic Landsbergis and in the first decade [1990 - 2000], when there were two right and left parties, **lots of MPs were academic background people. Either on the left or right side you had academics everywhere. This was very qualified team for higher education topics.**

...the crucial thing was that in 2000 the parliament was supporting academic sides. After the 2004 elections, they didn't have the knowledge, most of the people. **So it depends on who are the MPs and who are the members of special committees that propose or correct the law before going to the parliament.** (Lithuanian interview no. 12, pp. 11 – 12) [emphasis added].

This quotation not only shows that rectors influenced MPs. It also reveals that ties between MPs and academics were possible because many members of the political parties represented in parliament came from academia, and were hence receptive to the ideas of academics opposing the 2000 Law.

¹⁴ The committee included representatives the education ministry, rectors, Science council, government and parliamentary education committee advisors (http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=80125&p_query=&p_tr2=, accessed 22 May 2013).

¹⁵ The negotiations took place in a small group including two rectors, two MoE representatives and two representatives of parliament's Education Committee (Lithuanian interview no. 12 who was member of this committee).

A third important actor in Lithuania was the Constitutional Court. In the early 2000s the court continued to interpret university autonomy, as defined in the constitution. In this period it delivered two important rulings from the point of view of the policies analyzed in the present dissertation. The first ruling confirmed that boards with external stakeholders, as introduced in the 2000 Law, were constitutional, because they respected the self-governance principle. The second ruling formed a basis for the Amendment to the 2000 Law IX-1526 from 2003, which transferred the MoE's power to allocate individual university budgets to parliament.

In regard to public funding and property use by universities, another significant actor, the MoF, was mainly interested in preserving universities as budgetary organizations, which means that it had direct control over public funding and property. The MoF did not support liberalization of resources use, which would have been in line with the 'modernization agenda'. According to one of the high-ranking bureaucrats, the MoF was very powerful, and influenced any law affecting funding (Lithuanian interview no. 24). The MoF was also joined by the National Audit Office, which gained control over universities with Amendment IX - 169 to the 2000 Law from 25 January 2001.

4.2.2.1.2 International influence during the first reform wave

Three international reports provided recommendations for the reform of Lithuanian HE. These reports guided discussion of reforms in different ways, by offering criticism of the Lithuanian HE system, presenting possible new directions, and providing validation of the changes proposed by the Lithuanian reformers. Their direct influence on the content of the 2000 Law and its amendments was very limited.

The first set of recommendations was provided under the report, "Evaluation of Research in Lithuania" (Norwegian report), delivered by the Research Council of Norway between 1995 and 1996 (The Research Council of Norway 1996). The report was part of the

assessment of Baltic states' research sectors. The Norwegian report was initiated by the Lithuanian Science Council. This report mainly concentrated on research institutes and improving research in Lithuania. Due to limited capacity, it only provided recommendations for HE in regard to internal organization and use of funds (Lithuanian interview no. 32; The Research Council of Norway 1996) although the report seems to have inspired the 2009 Law.

The second set of recommendations was provided by the PHARE project, which was supposed to assist in the preparation of the 2000 Law (PHARE 1999a). This project was initiated by the education minister Platelis, and was delivered between 1996 and 2000. The project's recommendations were used mainly during the preparatory work for the 2000 law. According to the interviewees participating in the PHARE project and designing the 2000 Law, prior to the preparation of the law the bureaucrats dealing with HE, together with other people involved in the project, visited different countries and discussed various issues with international experts. However, later on the work on PHARE and the law was split, because finishing the law became a higher priority (Thomas 2001). Put differently, the 2000 Law was finalized without PHARE support and the project was used only partially. In addition to providing recommendations on the 2000 Law's content, the project also had a validating role for the proposed changes as well as serving as re-assurance for the authors of changes that their proposals were correct. As one former high-level representative of MoE recalls:

I think it was a very nice possibility for discussions because in these working groups for this PHARE two projects in these discussions **we involved a lot of rectors, directors, others representatives of the system**, and it was a **possibility for us to try to change the system to feel more free because we heard the support from colleagues from other countries that we are on the right way**. (Lithuanian interview no. 24, p. 11) [emphasis added].

A third report that was launched before the 2000 Law's adoption was the OECD report: "Reviews of National Policies in Education. Lithuania", initiated by Lithuanian national authorities (OECD 2002). One of the aims of the report was to raise important issues that

would be difficult to bring up for the national authorities (OECD 2002). The report provided recommendations on 11 policy areas, including changes to university governance and public funding use. These recommendations are discussed in more detail below. The OECD report had no influence on the 2000 Law proposal and its later amendments.

4.2.2.2 The second reform wave 2008 - 2012

At the end of the first decade of the 2000s, there was a strong demand for substantial reform in HE. One of the interviewees described this situation well: “everybody understood that it is **better to have the reform with a bad law than to have again stagnation**. Because if we wouldn’t come with a reform, then hasta la vista!” (Lithuanian interview no. 36, p. 6) [emphasis added]. What were presented as problems needing urgent solution were: the low quality of universities in Lithuania, leading to young people going to study abroad; the excessive number of universities with too many students, instead of there being students in professionally-oriented colleges (as viewed by critics); employer dissatisfaction with university graduates, who they did not feel met labor market needs; and the universities being managed by academic oligarchies. The problem with the academic oligarchy was, according to authors of the 2009 Law interviewed, that the same people were circulating in university management positions for very long periods of time, and they pursued their own needs rather than the needs of the university as an organization, and of society overall.

The 2009 Law was viewed by most of the interviewees as a substantial change, following a long period of stagnation. The previous substantial change was, in their view, brought about by the 1991 Law, a change seen almost two decades later as outdated. The 2009 Law was supposed to react to the challenges described above, mainly through two key changes, both of which were perceived as the most controversial points of the reform. Firstly, it was changing the boards into managerial bodies, with greater participation of external stakeholders. This change was nevertheless blocked by the Constitutional Court, which ruled

that such a change breached the constitutional principle of university autonomy. Hence the 2009 Law was amended in 2012 to reflect this ruling. Secondly, the funding allocation was changed to follow the students through the introduction of the voucher system. This exerted pressure on universities to increase the quality and relevance of HE due to students having the wherewithal to vote with their feet (Lithuanian interview no. 2).

A further important change was the transformation of universities from budgetary organizations into public legal entities. This included the possibility to transfer public property to university ownership, and some liberalization of fund use. According to both reform designers as well as reform opponents (rectors), this was supposed to make the reform more attractive to members of academia. The third policy area studied – university internal management and organization – was not substantially changed by the 2009 Law, as in 2000.

As already indicated, the first decade of the 2000s was marked by a desire to reform HE, a goal shared by experts and politicians across the political spectrum. The reform supporters also included the Lithuanian president Adamkus (Lithuanian interviews no. 19 and 21). In May 2006 the Lithuanian government collapsed, and a new center-left minority government was formed.¹⁶ One of the opposition's conditions for supporting the minority government was, according to several interviewees, that there would be an agreement on HE reform. In other words, the viability of the entire government depended on whether there would be HE reform or not. All the opposition and coalition parties represented in parliament prepared an agreement on HE reform, and signed it on 14 June 2007 (Lithuanian interview no. 23). The agreement covered the main reform principles, including the idea that the governing boards and funding have to be changed.

¹⁶ <https://freedomhouse.org/report/freedom-world/2007/lithuania#.VaOTSUWXoz4> (accessed July 13, 2015).

Two law proposals were prepared after the signing of the agreement, and were submitted to parliament in March 2008. One came from the incumbent social democratic education minister Zakaitiene,¹⁷ and the second from opposition Liberal¹⁸ and Conservative¹⁹ parties.²⁰ The ‘opposition’ proposal built to a large extent on the law proposal from the MoE (Lithuanian interviews no. 19 and 23). Yet on some policies it went further in the direction of the ‘modernization agenda’. It proposed more managerial university boards with greater external influence, and more liberal use of public funds and property. The reason for the difference was mainly that minister Zakaitiene did not have united support from her party for the radical changes she and her team supported (Lithuanian interview no. 23). The law proposal that was adopted by Lithuanian parliament on 30 April 2009 was that of the liberal and conservative parties, which won the parliamentary elections in October 2008 and formed the government. All of the following analysis of the 2009 Law concentrates on the adopted law as proposed by the liberal and conservative parties.

4.2.2.2.1 Key actors involved in the 2009 Law preparation

The people who prepared the proposal of the 2009 Law included Gintaras Steponavicius (education minister from December 2008), Mantas Adomenas (conservative MP from 2008), Remigijus Simasius (justice minister on behalf of the liberal party from December 2008), Nerija Putinaite (advisor to the Lithuanian president till 2008, education vice-minister from December 2008). Members of the liberal think tank, the Lithuanian Free Market Institute, and representatives of the ISM private university participated in designing the law. These latter two were connected to the liberal party of the education minister, and Simasius was former president of the Institute, as well as being a liberal party member. Both these organizations

¹⁷ http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=316047&p_query=&p_tr2= (accessed 5 December 2013).

¹⁸ For practical reasons the name of the Liberal Movement Party will be shortened hereafter to Liberal Party.

¹⁹ For practical reasons the name of the Homeland Union – Lithuanian Christian Democrats Party will be shortened hereafter to Conservative party.

²⁰ http://www3.lrs.lt/pls/inter/dokpaieska.showdoc_l?p_id=315957&p_query=&p_tr2= (accessed 5 December 2013).

(the Institute and ISM) were mostly concerned with the design of the new student voucher system. ISM also participated in defining a new university management model.

The law proposal was also complemented by the work of other actors. MoE bureaucrats, who specialized in funding and property issues, participated in preparing and regulating public property transfer, and the liberalization of public funding use. However, in the case of public property transfer they did not have a final say in how this regulation looked. Here, the MoF and parliament's Audit Committee introduced several safeguards.

Unlike in 2000, MoE leadership (minister Steponaviciu and vice-minister Putinaite) not only actively prepared the law proposal, but also led the law's adoption process, according to all of the interviewees. The journalists interviewed noted that Steponavicius was the first education minister who came to office with a ready-made reform plan. The law was adopted quite quickly following the new government coming into power, as the education minister not only had the law ready before taking office, he also brought his own team to the MoE, which helped to finalize the law proposal.

What helped Steponavicius with getting the law through parliament was that during the adoption of the law the country was in financial crisis, receiving structural funds from the EU for the first time. The structural funds were used mainly to support universities and colleges in favor of and implementing the reform. The reform team also focused on persuading academics to accept the reform. As one of the journalists interviewed notes:

Ms. Putinaite [whose first name was Nerija] was called Beria²¹ Putinaite, which refers to Stalin, because of strong pushes, maybe someone didn't want to say they were really afraid, because they were strong pushing, they said we are going to solve everything, it's none of your business. (Lithuanian interview no. 31, p. 5).

²¹ Lavrenti Beria was head of the secret police in the Soviet Union under Stalin's rule, and was well known for his enjoyment of torture (<http://www.historytoday.com/richard-cavendish/lavrenti-beria-executed> accessed 13 February 2016).

What this quotation indicates is that the authors of change were perceived as using not only positive but also coercive tools to promote the changes.

The proposal of the 2009 Law was publicly supported by private universities and public and private colleges. Both private universities and colleges had rational reasons for backing the reform, because, according to several interviewees, they obtained more funding as a result. The motivation was that private universities became eligible for the public funding of students, and colleges received more funding as they gained more students, students that the state redirected to vocationally oriented HE. In addition to obtaining more resources the representatives of the most prominent private university, the ISM, also participated in the 2009 Law's preparation, and were ideologically close to the liberal education minister.

Similarly to the 2000 Law, according to the interviewees, the rectors were the main opponents of the 2009 Law. However, what was different from the time of the 2000 Law's preparation was that rector influence on the law was smaller. The first reason for this was that the rectors' image in the media became negative (Lithuanian interview no. 8), turning the public against rectors and in favor of the reform. One of the journalists interviewed noted:

Cause we were writing about his [Ginevicius chair of Rectors' Conference] salary and it was very good news for Mr. Steponavicius [education minister], because he could say that look at him, he earns more than the president of Lithuania and that's why he doesn't want a reform. It was a very good from the Ministry. (Lithuanian interview no. 35, p. 9).

Secondly, rectors were reluctant to publicly criticize the reform, according to former high-level MoE bureaucrats, because they were afraid of getting less support from the MoE in terms of structural funds or subsidies for students, to name two examples. One of the rectors added that those who supported the reform received favors from the government, and everything went smoothly for them (Lithuanian interview no. 34). What further decreased the strength of the rectors was that they were not united. Two large and important universities, Mykolas

Romeris University and Vytautas Magnus University supported the reform, according to several interviewees drawn from among the former rectors as well as the reform designers.

What was in some ways similar to the preparation of the 2000 Law was that rectors still maintained ties with MPs across the political spectrum. However, the influence of rectors was decreasing, while there was generational change in the parties. The following two quotations illustrate this well:

Then it was less and less with the new parties involved as they were fresh and new and that academic background came after independence. Lots of academics came to the parliament after independence. You get less and less academics involved in political parties. **In 2000 you have a switch of generations and all the professors had to step back and young politicians came to power.** (Lithuanian interview no. 12, p. 11) [emphasis added].

Social-democrats were less, maybe, aggressive, in respect to Rectors' Conference, now the liberal minister is more aggressive and more intending to change the situation, but **the tendency was more or less the same, that Rector's Conference should step aside and let the parliament and the government eventually make the higher education reform.** (Lithuanian interview no. 26, p. 3) [emphasis added].

These quotations also show that support for rectors' ideas was not based on party color, but rather on whether party members shared the same understanding of appropriate HE governance with rectors. This was the case in the Social Democratic party, where minister Zakaitiene proposed changes to boards and fund use in line with the 'modernization agenda', while her other colleagues were more inclined to accept the views of rectors (Lithuanian interview no. 23). In addition, one of the Social Democratic party's most prominent members, Rimantas Vaitkus, was also vice-rector of Vilnius University, which was one of the fiercest opponents to the changes.

At the same time, views within the Conservative party, which entered government in 2008, were far from unified. According to one of the former rectors, the Conservative chair of the parliament's Committee on Education, Science and Culture, Stundys, blocked the law

that the education minister wanted to pass immediately in January 2009, opened the discussion to interested people, and helped to achieve a compromise that partially diverted the reform from the ‘modernization agenda’. Simultaneously his party colleague, Mantas Adomenas, was one of the reform authors pushing the ‘modernization agenda’ (Lithuanian interview no. 13).

The last important actor worthy of a mention was the Constitutional Court, which blocked changes to the 2009 Law related to the boards. In its December 2011 ruling it decreed that the measures defining board composition and competencies were in breach of the autonomy principle enacted in the constitution, and the 2009 Law was amended in 2012 to accommodate this ruling.

4.2.2.2.2 International and foreign models for the 2009 Law

During the preparation of the 2009 Law, international reports and foreign models were used as a source of ideas, as well as tools to validate the changes proposed. Yet, similarly to the 2000 Law, some of these reports were not used. The authors of change also looked at foreign systems, which they used to gather ideas for proposed policies (US, England, Estonia) and for validating the proposal they had already defined (US, UK). The use of these models is discussed in detail below, in the analysis of individual policy measures.

Three international reports were delivered prior to the 2009 Law that could influence it. Firstly, the World Bank delivered in 2003 a report that talked broadly about stimulating the knowledge economy in Lithuania. In the part devoted to HE, the report provided suggestions on changes to university boards, and on the liberalization of public property use (World Bank 2003b). This report was not mentioned as a source of ideas for the 2009 Law's proposal, even though the Lithuanian government requested it.

The second report was prepared in cooperation with the British Council in Lithuania. The British Council was quite active in Lithuania during the preparation of the 2009 Law. It

helped the authors of the 2009 Law design the reform (Lithuanian interview no. 21). It also integrated Lithuania into a project entitled, “Higher Education: Vision 2020 and Beyond”, which included five countries altogether. For this project the British Council selected young leaders from different spheres of society. The Lithuanian team included the future education minister, Steponavicius, and a representative of ISM University, who then cooperated with Steponavicius on the preparation of the 2009 Law. In addition, the British Council supported the law publicly. The paper, a result of the project, was written as a vision of how Lithuanian HE should look in 2020, under the broad guidance of British experts. The document covered different areas, including change to public fund and property use, and change to university management (British Council 2007).

The third report was the “Policy Mix Review Report”, produced by the European Research Area Committee (CREST). This report mainly concentrated on recommendations on improving both research and development and innovation systems in Lithuania, and it included HE recommendations pertaining to internal organization, governance and management of universities, cooperation of universities with labor market, and change to student funding (Beatson et al. 2007). The recommendations in the report were more or less in line with the ideas of the 2009 Law's authors, even though they did not mention this report as a source of ideas.

The interviewees from academia noted that the international reports, as well as the foreign models selected, especially from the US and UK, were used in the discourse as justification for delivering certain changes. According to one of the rectors, the general argument for the reform was that this is how it works in developed countries (Lithuanian interview no. 34). Yet the foreign models were also used in rhetoric opposing the reform. MP Cigriejiene from the Conservative party, in her amendment to the proposal of the 2009 Law, provided examples of a number of countries where the supervisory boards of universities did

not possess governing powers, and she expressed the view that Lithuanian Law should follow these examples.²²

An older report by the Norwegian Research Council, from 1996, was also used as justification for larger reform. One of the reform team members preparing the 2009 Law made this comment on the Norwegian report's use: "We were using some provisions and prognosis of Norwegians to push politicians to some action, because not action was most preferred by everybody" (Lithuanian interview no. 21, p. 11). In other words, this report was used to stimulate changes, rather than to define concrete provisions in the new law.

4.2.2.3 Analysis of 'modernization agenda' use in Lithuania

In the Lithuanian case, the analysis of 'modernization agenda' use begins with the introduction of, and later changes to, the role of external stakeholders in university management. There are two reasons for starting with this policy area. Firstly, in both reform waves it was one of the most significant but also controversial changes. Secondly, during the second reform, which led to the 2009 Law, it influenced changes to the other two policies analyzed, namely public funds and public immovable property use. These policies are discussed in the second part of this section. University internal management and governance is discussed as the last policy area. The part on modernization reforms in Lithuania closes with a summary of the main findings.

4.2.2.3.1 Introduction of external stakeholders into university management

External stakeholders were introduced into university management through university boards,²³ which were enacted by the 2000 Law and empowered by the 2009 Law and its 2012 Amendment. Both in 2000 and in 2009, the changes related to the boards supported the laws' overall aim of opening the university up to external stakeholders. From the point of view of

²² http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=338439 (accessed 9 December 2013).

²³ In Lithuania, boards with external stakeholders were named councils. However, in the interests of navigating the dissertation across countries and terminologies, the general term board is used.

the 2000 and 2009 Laws' authors, one of the main reasons for the introduction and later strengthening of the boards was that the existing self-governing system was hindering necessary reform of university internal structures, changes that would lead to optimization of university work. In the words of one of the 2000 Law's authors:

...the main problem is that in universities we have such system when the rector is elected by professors themselves and then the main body of university is senate elected by researchers and professors and because of such principle of forming of bodies of the universities **is impossible to do the reforms concerning internal structure...Rectors are not able to do reforms in universities, they don't have mechanism to implement, they are accountable to senate.** At the end of the year they need to present their report to senate to approve. All main decisions they have also to discuss in senate and receive their approval, **it is impossible, in such governing scheme it is impossible to optimize inner structure of an institution.** (Lithuanian interview no. 24, p. 10) [emphasis added].

In addition to the problem of rectors being unable to deliver organizational reform due to ties with their peers, the authors of both laws considered it problematic that an academic oligarchy had been created. This meant that the same people circulated in university management for many years. Academic oligarchy reflected neither the needs of the university nor of wider society, hence needed dismantling (Lithuanian interview no. 19).

4.2.2.3.1.1 Introduction of external stakeholders into university management in 2000

The authors of the 2000 Law managed to introduce external stakeholders into university management through the boards, yet the adopted version of the law did not reflect their initial ideas, neither in regard to the board's powers nor to their composition. Originally, the boards were supposed to have some managerial powers, most importantly in selecting the rector (OECD 2002; Lithuanian interview no. 5). The authority to select the rector was dropped from the board's powers under pressure from academics, even before the law proposal reached parliament in May 1999. The 1999 version of the 2000 Law proposal, however, still awarded several decision-making powers to the boards, but they were removed from the 2000 Law (approved in March 2000) after further negotiations between rectors and representatives of

the MoE and parliament. The changes to board competencies between the proposal of the 2000 Law submitted to parliament, and the version adopted, are summarized in Table 1 below.

Table 1: Comparison of board's powers before and after adoption of the 2000 Law

1999 Proposal of the 2000 Law	2000 Law, as adopted
The board is governing body of the university.	The board is public supervisory and care body of the university.
The board discusses and approves rector's annual report, annual income, expenditure estimates and executive reports. In other words, board approves the budget.	The board considers and prepares conclusions regarding annual reports of the rector, annual income and expenditure forecasts, and a report on whether those forecasts have been met. The senate approves the budget. If the senate does not approve board's conclusion and proposals on budget, and the board votes again in the same way, then the board's decision is final. Hence, the board makes the final decision where the senate has taken an opposite position with regard to the budget proposal.
The board can propose to the senate to impeach the rector without any reason specified in the law.	The board can only advise the senate to dismiss the rector, and only if it is established that the rector grossly violated a law or university statute . The senate has the final say.

Sources: Author's compilation based on Lithuanian Parliament 1999; Lithuanian Parliament 2000

In regard to board membership, the 1999 proposal of the 2000 Law suggested that external stakeholders would form the majority, and the government would have an important influence on the board's composition. The proposal of the law from May 1999 stipulated that two thirds of the board should come from outside the university, while in the 2000 Law this proportion was only one third, with the rest depending on senate (one third) and agreement between the rector and education minister (one third) (Lithuanian Parliament 2000). Furthermore, according to the law proposal, the government was supposed to have the right to define the board's set-up. However, this government power was not included in the adopted 2000 Law either (Lithuanian Parliament 1999; Lithuanian Parliament 2000).

The introduction of boards was questioned by a group of MPs who asked the Constitutional Court, after the adoption of the 2000 Law, to decide whether the definition of the boards went against university autonomy as defined in article 40 of the Lithuanian constitution (Constitutional Court 2002). The court ruled that boards with supervisory powers and limited influence from external members were constitutional. This was an important move, because the court rulings were also binding for future legislation (2009 Law), and contributed to further interpretation of what exactly university autonomy meant.

In the matter of the 2000 Law, the petitioner claimed that the following provisions limited universities' self-government rights in the areas of scientific and educational activities, and hence restricted universities' autonomy as defined by article 40 of the Lithuanian constitution. According to the law in question, the board was to provide:

- conclusions on the university's long-term development plan;
- recommendations on study programs, programs related to research and on structural changes for the implementation of such programs;
- conclusions and recommendations for the university budget that would prevail over the senate's decision;
- evaluation of the use of property and funds.

On all these points the court ruled that the law was in line with the autonomy principle enacted in the constitution (Constitutional Court 2002). The court based its decisions on three arguments. Firstly, the definition of the boards in the 2000 Law was in line with the principle of universities' self-governance, and was hence not threatening their autonomy in research and teaching. This was because the board had only an advisory role in almost all areas mentioned, and the university senate maintained a decision-making role. In addition, senate

members had the same rights over the boards' composition as the executive organization (MoE). Due to these reasons, universities remained self-governed. The court asserted that the introduction of boards as supervisory bodies did not compromise university autonomy, which had to be balanced with responsibility and accountability to society (Constitutional Court 2002).

The second and third arguments demonstrated that the boards having decision-making powers in addition to advisory ones, in regard to the university budget was also constitutional. According to the second argument this was because, according to the Constitutional Court's 1994 ruling, the state had the right to regulate the external affairs of universities. It was up to the legislature to define which spheres of university activity were not independent from the influence and control of governmental organizations and officials. Put differently, the legislature could introduce control of some activities. In this case, it was the control over universities' budget use. The introduction of state control in this area was in accordance with the Constitution's Article 134, paragraph 1, stating that state control shall confirm the legality of public property use and the execution of the state budget (Constitutional Court 2002).

According to the third argument, the legislature does not have to exercise direct control of universities' budget use. The legislature can delegate this function to another body, which in the case of the 2000 Law, was the university boards (Constitutional Court 2002).

To sum up, the board's definition changed in two basic directions between the original proposal of the reformers, and the final regulation adopted in the 2000 Law. Firstly, it changed from a managerial body to an advisory one. Secondly, it switched from being a body composed mainly of external stakeholders, to being one primarily controlled by academics from the university. The Constitutional Court endorsed this definition.

Key actors involved in introduction of boards in 2000

Most of the interviewees identified the bureaucrats from the Department of Science and Studies as the authors of the original regulation of the boards, with managerial powers and the possibility to select the rector. According to one high-level MoE representative, education minister Platelis supported such regulation (Lithuanian interview no. 18). Introduction of boards as managerial bodies with external stakeholder participation was the priority of the 2000 Law, according to one of its authors (Lithuanian interview no. 24).

Based on all the interviews, the rectors were the key opponents of board introduction. They were very powerful, and changed the MoE's proposal substantially. The view of the rectors was, according to one of the 2000 Law authors, also supported by other academics from the universities (Lithuanian interview no. 24). The reason was that the existing self-governance system provided academics with control over the university, through the academic senates. Academics were electing the members of the senate, which in turn elected the rector from among academics (Lithuanian interview no. 18).

The question of preserving the existing system of university management was of vital importance for Lithuanian rectors. Their key arguments were, according to most of the interviewees, that the boards would threaten university autonomy. One of the rectors interviewed, who was very influential in changing the MoE's proposal, summarized the rectors' position:

Back in 2000 everything that the [Education] Committee²⁴ presented for the law how the councils [boards] should be run was exactly made and this happened **because the academics strongly believed that there is no qualified members for the councils yet and the politicians would have to run the...** to be more precise about politicians... **Not to lose autonomy was the main thing and even coming back to 1992, you know that we had in the constitution written that universities should have autonomy. Basically why the system of the councils was established as it was**

²⁴ Parliament's Education Committee.

in 2000 was that academics would run the university. (Lithuanian interview no. 12) [emphasis added].

This quotation succinctly summarizes the main argument as to why the rectors were against the boards. They wished to preserve university autonomy. This would have been endangered if the boards were to manage the university, and external stakeholders were to have a prevalent position on the boards. The reason being that external stakeholders were not able to run the universities. This would then open up space for politicians to run the universities, because they could influence external stakeholders lacking in the appropriate knowledge more easily than academics who know their university well. Similarly to the Constitutional Court, the rectors argued that the involvement of politicians in university management would run against the principle of autonomy as defined in the constitution.

The quotation above also shows that the rectors managed to change the definition of the boards in accordance with their views, and that this happened in parliament in a reconciliation committee, as already discussed above. As a former high-level representative of the MoE noted in regard to these changes:

...the first idea of such councils [boards with managerial powers and representation of external stakeholders], which were included in our newest law [2009 Law], and these statements were included in the draft of the law in 2000 also. **But by the decision of parliamentarians it was decided it is not the time to change the governance scheme of the universities. These councils [boards] of universities were introduced or established, but they didn't have much power in the universities, they worked as advisory bodies in universities.** (Lithuanian interview no. 24, p. 7) [emphasis added].

This quotation, in addition to confirming that the boards were changed into advisory bodies in parliament, also points to the reason why members of parliament made such changes. The reason was that they believed in preserving university management without external stakeholder influence. In the words of one ruling party member from the time of the 2000 Law's adoption:

I was inclined to have councils or boards that could fulfill the functions that the current councils now [2009 Law] have. **But after the restoration of our independence, it was largely accepted idea that institutions have to be established on the basis of autonomy.** Such idea of large autonomy, freedom (laughter), **free activities, without inclusion of people from the outside, was largely accepted by many intellectuals in our republic.** (Lithuanian interview no. 9, p. 2 - 3) [emphasis added].

There was no opposition to the introduction of boards within political parties. It rather came from academics, as shown by the following quotation from the interview with a former high-level representative of MoE:

Q: Do you think that it was somehow politicized? Was there some opposition to those changes to some political parties?

A: Not very much, because **they were more rational. These things are rational and easy to understand. Who is interested except universities, who are interested in a system existing closed from the society?** Saying only give me money and...(laughter) (Lithuanian interview no. 18, p. 8) [emphasis added].

This quotation shows not only that the issue of boards was not divisive across political parties, but also it points out once again that the academics considered it appropriate that universities should be closed from their environment.

International models for board definition in 2000 Law

The interviewees mentioned the PHARE project most often as a source of influence on the proposal of boards. The impact of the PHARE project was threefold. Firstly, the PHARE project served as clarification of the problems in Lithuania, by providing comparative examples of other better functioning systems. Secondly, it helped with defining solutions to existing problems. These two impacts of the PHARE project on the design of the 2000 Law are expressed by the following quotation:

I think it was important to hear from colleagues in other countries that their system functions...but which model was for us...it is difficult to say this model is best for your country, **you need to adapt it, you need to understand some principles. If you want to optimize the work of the university we need to cut this direct accountability of the head of institution to the employees.** We need to find another

schemes, not to do it in the primitive way like you are a director or rector and can do what you want, it is not the way but to find how to regulate this activity, which mechanisms of accountability to introduce...**It is the weakest point in our system that is why our system, our universities do not function so effectively. The trips and experience of other countries helped to understand that we need to find some schemes of implementation, some principle, which we need to implement.** In some cases we need to change governing scheme, in other cases we need to change financing schemes. (Lithuanian interview no. 24, p. 12) [emphasis added].

Thirdly, the PHARE project supported the introduction of strong boards. As a former high-level representative of the MoE put it: **“But in the PHARE project, there was a loud voice that such council [board] must be involved in the management of Lithuanian universities.”** (Lithuanian interview no. 32, p. 17) [emphasis added].

In the White Paper report, the PHARE project provided concrete recommendations on how the boards should be defined. Some of these (in regard to board composition) were used, while others (in terms of board powers) were not. In regard to composition of the board, the law proposal from May 1999 and the law adopted in 2000 were almost identical to the White Paper that preceded them. The similarities concerned the groups to be represented on the board, which was to include people from the university, as well as from outside (representatives of professional, cultural, economic and other organizations), and the groups who should not be on the boards (e.g. members of government or parliament). In addition, there was the regulation that the chair of the board had to come from outside the university. The White Paper, unlike the law proposal from May 1999 and the adopted 2000 Law, did not say anything about the relative proportion of board members from inside or outside the university (PHARE 1999b; Lithuanian Parliament 1999; Lithuanian Parliament 2000).

The following table summarizes the main differences in terms of board powers between the White Paper and the adopted 2000 Law, and it shows that in the former, the boards had greater decision-making powers, while in the latter they instead had an advisory role.

Table 2. Powers of the boards in White Paper and in 2000 Law

White Paper The board shall:	2000 Law, Article 24, paragraph no. 1 The board shall:
Solve institution's strategic development issues.	Prepare conclusions concerning the projects of a long-term plan of university development and agreement of university with the MoE.
Consider and approve the institution's development programs that will require institutional change; implement new academic or research programs requiring additional financial or material investments...	Present recommendations on study programs, programs related to research and the development thereof, and on structural changes necessary for implementation of such programs.
...transfer or sell real estate, equipment or intellectual goods, the price of which shall exceed the amount established by the government, to other institutions; extend financial or other support to another legal person.	The universities were not awarded the right to sell or transfer their property, so this part is completely absent.
Approve the rector's annual report and the annual profit and loss estimate.	Consider and prepare conclusions regarding annual rector reports, annual income and expenditure forecasts, and report on whether those forecasts have been met.
Assess university activity and publicly announce proposals for their improvement.	Announce publicly the results of the evaluation of university activities (providing proposals was not included).
Announce elections for the position of rector.	No role in selection of the new rector.

Source: Author's compilation based on PHARE 1999b; Lithuanian Parliament 2000

The White Paper was similar to the 2000 Law in those areas where it proposed an advisory role for the boards, such as evaluation of whether university is fulfilling its mission and contributing to the country's development, and how the university uses its assets and state allocated funds. The two documents also shared the idea that the board should provide support for the respective university.

To sum up, the proposals of the board in the White Paper were translated into the 2000 Law in such a way that boards became advisory bodies without real power. One of the former rectors, who were the main opponents of the board idea, commented on the use of the PHARE

recommendations as follows: **“The documents presented by the PHARE group were basically turned around, reworked, rewritten, not much of it was used.”** (Lithuanian interview no. 12, p. 4) [emphasis added].

Analysis of factors influencing the introduction of boards in 2000

There were several factors that led to a decrease in the existing HE governance institution's legitimacy in regard to the lack of external stakeholder participation making the institution open to change. First of all there was a shift in terms of who the authors of changes were, from academics to bureaucrats from the Department of Science and Studies. The rules of appropriateness shaping the behavior of bureaucrats differed from those introduced by academics in the early 1990s (the self-contained universities). The bureaucrats were exposed to the new institution through what DiMaggio and Powell (1991) call on-the job learning, mainly thanks to the PHARE project. As a result, their behavior was structured by new rules of appropriateness on the involvement of external stakeholders in university management, according to which university autonomy should be balanced by accountability to state and society. Simultaneously, unlike during the early transition stage, at the end of the 1990s the authors of the change deemed it appropriate that the state define the relationship of universities with external stakeholders (PHARE 1999a), e.g. former high-level representative of MoE (Lithuanian interview no. 24).

Because of these new appropriate rules, the bureaucrats perceived the HE governance institution in place since the early 1990s as bringing about unintended consequences, a second factor in the decrease of the existing HE governance institution's legitimacy. The unintended consequence, as interviewee number 24 cited above notes, was that university leaders were not able to deliver necessary organizational reforms. The reason for this was that, due to the self-governance principle, they were accountable to people from inside the university who would be affected by these reforms.

Since university management was no longer deemed appropriate, the bureaucrats decided to propose a new HE management model that would address the unintended consequences, and would simultaneously be shaped by a ‘modernization agenda’, as proposed by the PHARE project. This model included the introduction of university boards as new managerial bodies, accountable both to society and the MoE. However, the change was not delivered as intended, and the body became dominated by academics from the universities, having only an advisory role. The key reason for this was path-dependence in regard to legitimate policy designers (rectors) who preserved the path-dependent view on appropriate university management. According to this view, universities should be self-governed organizations without external influence, meaning, in fact, without the influence of politicians.

In addition, the behavior of MPs was also structured by the rules of appropriateness introduced in the early 1990s in regard to university management. This meant that MPs considered the rectors to be appropriate policy designers, and self-governance to be an appropriate university management model. Hence, the respective changes were made to the proposed law.

It is important to point out that the authors of the change (bureaucrats responsible for HE) did not accept the same rules of appropriateness as the legitimate policy designers (rectors). The analytical framework proposes that when the perception of what is appropriate differs between authors of change and legitimate policy designers, the will of the latter group prevails. The reason is that the legitimate policy designers influence the final form of the adopted change, while the authors of reform only propose change. The weak position of the authors of change was in this case amplified by the insufficient political backing of the bureaucrats from the education minister during the adoption process of the 2000 Law.

Finally, in 2002, the ruling of the Constitutional Court reinforced the appropriateness of self-governance management of universities, by stating that university autonomy is preserved if external stakeholders do not have a decisive say in university management. This is a functional positive feedback mechanism as labeled by Thelen (1999), meaning the court reinforced the logic of the system in place, by interpreting university autonomy in such a way that it was in line with the autonomy introduced by academics in the early 1990s.

4.2.2.3.1.2 Change of boards in 2009 and 2012

The previous passage shows that most of the aims (empowering university management structures to reform the university, abolishing academic oligarchy, opening universities up to the needs of its members and wider society) attached to the introduction of boards were not achieved with the 2000 Law. As a result, they remained focal points of the preparation and adoption of the 2009 Law. The 2009 Law was supposed to fulfill one further goal. According to one of the 2009 Law authors, this was to separate academic and governing functions, so that the university could work better in both these areas (Lithuanian interview no. 19). This meant that the board gained some strategic management powers, while the senate became mainly responsible for academic issues.

The boards' powers were defined early on in the policy design process, without any considerable discord within the reform team. The 2009 Law shifted all key governing functions from the senate to the board:

- definition of rector selection procedure, and the selection itself,
- changes to the university statute,
- approval of university vision and mission,
- setting out procedures for managing funds and property, and decisions in these areas,

- setting out principles for selection and assessment of employees,
- approval of annual budget.

These competencies were already part of the first Law proposals from March 2008, and were not much changed in the adoption of the 2009 Law (Lithuanian Parliament 2000; Kubilius 2008; Lithuanian Parliament 30 April 2009b).

The process of defining board composition ran less smoothly than the definition of the board's powers. The first Law proposal from March 2008 (Kubilius 2008) suggested that the education minister should appoint the majority of board members, and these members should come from outside the university. However, this was changed in the parliament's Education Committee, under the leadership of Stundys from the governing Conservative Party (Lithuanian Parliament 2009a, Lithuanian interview no. 38). Following this change, the education minister appointed four out of nine, or five out of eleven members of the board, who were to come from outside the university. One more member of the board had to be agreed on between the education minister and the senate. The students, teachers and administration of the university selected the rest of the board members. The law did not specify whether the member appointed based on agreement between the education minister and the senate had to be from outside of the university (Lithuanian Parliament 30 April 2009b). So it followed that if this member came from within the university, then external board members formed a minority of the board.

After the adoption of the 2009 Law, opposition MPs turned to the Constitutional Court to ask whether the new definition of the board was constitutional. In December 2011 the Constitutional Court ruled that the boards with a majority of external stakeholders and representatives of state should not have any governing functions, including not being able to select the rector (Constitutional Court 2011). The law had to be changed accordingly. After

amending the 2009 Law in 2012, the board mainly approved the university senate proposals. It lost the fund and property management powers gained through the 2000 Law. The board's function of selecting the rector was modified, and the senate gained the power to submit proposals to the board in terms of the suitability of candidates to occupy the position of rector. The candidates for the rector were selected via open competition. University people gained a majority on the board (five out of nine or six out of eleven), and the education minister lost all powers in appointing board members. External board members were selected in open competitions organized by the Higher Education Council. The rector had to be elected by a three-fifths majority of the board, which meant that at least one of the external board members had to support the university members' choice. Either that or the external board members needed at least two university members in order to elect the rector (Lithuanian Parliament 2012).

To sum up, the 2012 Amendment still strengthened the university board in comparison with the 2000 Law, because the board gained the power to approve senate proposals, while before it could only advise on them. In addition to that it started to participate in rector selection (Lithuanian Parliament 2012). Also, the power of external stakeholders was greater than in 2000, because at least one of them was required to select the rector. Simultaneously, the 2012 Amendment decreased the power of the MoE over universities, because the MoE lost all its influence over board composition. In addition, the amended version of the 2009 Law left out the duty of the board to ensure the accountability of the university to its founders and the public (Lithuanian Parliament 2012). In the case of public universities, this meant no accountability to the state, which was their funder.

Key actors involved in change of the boards in 2009 and 2012

Steponavicius and other colleagues from his team who prepared the 2009 Law proposal defined the composition and powers of the boards while still being in opposition. Once

Steponavicius became education minister he became, together with his-vice minister Putinaite, a leader in promoting change of the boards. Several interviewees noted that the education minister and his team having a clear idea about board definition from the very beginning of reform was one of the reasons why more substantial change was possible than in 2000.

Private universities, alongside public and private colleges, supported the boards proposed by Steponavicius during public debates. These organizations, as discussed already, benefited from the reform through gaining public funding. They also had positive experiences of stronger boards with external stakeholders. Representatives of both colleges and private universities participated in the parliamentary discussions, arguing that stronger boards with external participation were good for the university. One of the former high-level representatives of MoE recalled:

The rector of that small university [ISM, the most important private university] was coming to the parliament, and telling to everybody: you can see it is working and I am fine, my people are happy, our students are very happy, it's just normal, this new system is not something strange it is normal. (Lithuanian interview no. 23).

In other words, the ISM rector was trying to persuade parliamentarians of the positive impacts of managerial boards, using his own university as an example.

The strongest opposition to the shift of boards from supervisory to governing bodies came from the rectors of public universities, just as it had done a decade earlier. During the preparation and adoption of the 2009 Law, the rectors put forward similar arguments as they had done regarding the 2000 Law, e.g.: there will be people from outside who do not know anything about the university; people from outside deciding about the university would compromise university autonomy; external members nominated by the education minister would try to fulfill the wishes of the education minister. Since the 2009 Law also awarded some additional rights to the universities over their property, as discussed in detail later, a new

fear was being developed among the rectors, that these external people who do not care about the university would sell its property, while prioritizing their own interests above those of the university. The rectors also used the 2002 Constitutional Court ruling to argue that the shift of boards from advisory to governing bodies would run against the constitutional definition of university autonomy. The reason being that in 2002, the court stated that a body including external stakeholders could not take on a managing role (Constitutional Court 2002).

As already mentioned above, several factors decreased the rectors' influence on the definition of the boards. The first was that the rectors were no longer united, and there were important public universities that supported the changes to the boards (Mykolas Romeris University, Vytautas Magnus University). The second was the negative media image of the rectors. The autonomy promoted by the rectors was presented as a possibility for university leadership to abuse their power, something that no one could control (Lithuanian interview no. 1). This threat was used by the authors of the 2009 Law as a reason for pushing the reform (Lithuanian interview no. 22). Thirdly, there was generational change in parliament, and fewer MPs came from academia. Hence a smaller number of them identified with universities in support of the rectors.

The key actor bringing about substantial change to the 2009 Law in regard to the boards was the Constitutional Court. The court ruled in 2011 that parts of the 2009 Law were not constitutional. The reasoning of the Constitutional Court recalled earlier rulings (1994, 2002); the autonomy as defined in the Lithuanian constitution implies self-governance of universities by the academic community, meaning that the academic community has a decisive influence on the formation of the management body with the greatest power. In the view of the Constitutional Court, this was not the case with the 2009 Law, where academics could not have a decisive majority on a board which had governing powers. Academic autonomy was, according to the Constitutional Court, not possible without organizational autonomy, which

included the autonomy of academics over university management (Constitutional Court 2011).

International and foreign models for boards in 2009 Law

All the reports delivered for Lithuania (World Bank 2003; British Council 2007; Beatson et al. 2007 - CREST report) advocated similar changes to those proposed in the 2009 Law, in terms of the composition and competencies of the boards. Yet, none of the 2009 Law authors interviewed mentioned these reports as a source of ideas.

In addition, there were three reports prepared about boards in different countries. One of them was prepared by the group working on the proposal of the 2009 Law, and was led by the rector of ISM (Lithuanian interviews no. 16 and 23). The second was delivered by the Research Council, more precisely its head, Butkus (Lithuanian interview no. 6) and the third one was prepared within the British Council project (British Council 2007). Again, no direct reference was made to these reports by the designers of the 2009 Law.

What the authors of the law cited most often as a basis for their ideas on defining the boards were the US and English systems. The two systems also had a validating role in the reform. As one of the journalists interviewed puts it: “The US universities are the best ones and the UK are the best in Europe. We are small and you have to find what is best.” (Lithuanian interview no. 7, p. 4).

The US model was mentioned more often as a source of ideas, which seemed logical, especially in regard to board formation. In England, the boards were self-perpetuating, while in the US the governor could appoint the board members of public universities (Powell 2013; StateUniversity.com, accessed 1 December 2013). The role of the governor was similar to the one assigned to the education minister by the 2009 Law authors. If one would compare general aspects of the public university boards in those two countries with Lithuanian boards, it would

be clear that the proposal of the 2009 Law (Kubilius 2008) was in line with these models, in terms of making the board a strategic management body. However, the approved 2009 Law diverged from these models in one substantial area, and that was in the composition of the board. Unlike the English or US models, in the adopted 2009 Law there was no ensured majority of external stakeholders on the board. This was an important difference, because even though the boards were designed to be stronger, university people still had a big influence on them. This supported the partial preservation of the self-governance system.

In addition, the decision of the Constitutional Court caused further divergence from the US and English models, when it stated that a university could not be governed by a body including external stakeholders (Constitutional Court 2011). Based on the 2011 ruling of the Constitutional Court, the 2009 Law was stripped of further attributes resembling the US and English models. In concrete terms, the board had fewer externally appointed members, was no longer a governing body, and the education minister did not have any impact on board membership (Lithuanian Parliament 2012).

The table below compares the powers of boards in Lithuania, as changed in 2009 and 2012, with the two model countries. It shows that the 2009 Law was very similar in regard to the competencies of the boards, while the 2012 Amendment shows a shift away from the foreign models.

Table 3: Boards in 2009 Law, and 2012 Amendment with the English and US models²⁵

2009 Law	US ²⁶	England ²⁷	2012 Amendment
Appoints rector based on open competition.	Selects the university president based on the proposal of selection committee.	Appoints the university head (vice-chancellor). Appointment committee identifies the candidate	Elects rector based on the senate's proposal of candidates. Open competition to select candidates.
Submits to the parliament for approval university statute amendments. Senate gives opinion.	Approves charter and develops updates, approves and enacts bylaws.	Approves statute and its changes. Proposals for this come from the senate.	Senate proposes, board submits to the parliament for approval university statutes' amendments.
Sets the procedure for organizing rector's selection.	Procedures for president's selection part of the bylaws adopted by the board.	Defines & approves procedures for university's head selection.	Approves the procedure proposed by senate for organizing rector's selection.
Approves university's vision & mission, a strategic action plan presented by the rector.	With university president determines the mission, faculty & other constituents involved in strategic planning are consulted.	Approves mission & strategic vision & long-term academic & business plan. These documents are usually prepared by the senate.	Approves senate's proposal, university's vision & mission, & a strategic action plan.
Sets procedures for managing, using, disposing of funds & property + considers & approves key decisions related thereto. Sets principles for selection & assessment of employees.	Sets policies in personnel matters, investment & budget guidelines.	On the advice of senior academic leaders & senate sets the procedures for funds' & property managing & for principles for selection & assessment of employees. Sets staff services pay framework & conditions; is responsible for oversight of strategic management of land & buildings & financial & business administration.	Approves senate proposal for procedures for managing, using, disposing of funds & assets managed by the right of ownership; does not have say any more in key decisions related to these activities. Senate sets qualification requirements for teaching & research staff.
Approves an annual statement of revenue & expenditure of the university & a report on the execution of this statement presented by the rector; may initiate an audit of economic & financial activities of the university.	Approves budget.	Approves annual estimates of income & expenditure.	Considers university's annual statement of revenue & expenditure presented by the rector, & approves a report on the execution of this statement; no possibility to initiate the audit.
Ensures accountability & university's relations with public & founders, informs the public about university's strategic action plan implementation.	Plays important role in connecting university to the community they serve.	Ensure the establishment & monitoring of system of control & accountability.	No more accountability mentioned in the law.

²⁵ Author's compilation based on: Fielden 2008; Higher Education Funding Council for England 2009; Lithuanian Parliament 2009b; Association of Governing Boards of Universities and Colleges 2010; Lithuanian Parliament 2012; Bulette 2013a; Bulette 2013b; Powell 2013.

²⁶ In the US there was considerable variety among universities, but there were certain general patterns for public universities that could be identified during the preparation of the 2009 Law, which are summarized in the table.

²⁷ In the table the data are mainly on universities established after 1992 in England and valid during preparation of the 2009 Law. There are different types of boards in England with different roles, but there are some general characteristics of the boards, which are captured in the table.

Analysis of factors influencing the change of boards in 2009 and 2012

During the preparation and adoption of the 2009 Law and its amendment, the authors of change were the experts and politicians who became leaders of the MoE in December 2008. These people, like their predecessors in the MoE leadership at the end of the 1990s, perceived that the HE governance institution, dominated by self-governance and the accountability of the rectors to their electorate, had lost legitimacy. There were several reasons behind this view. One was that the rectors could not deliver necessary reforms within university, as their electorate would not have welcomed these steps. Furthermore, according to a former high-level representative of the MoE, the self-governance system led to a situation whereby the same people would remain in university leadership, thus creating an academic oligarchy (Lithuanian interview no. 19). The problem with academic oligarchy was that it responded neither to the needs of the university as a whole nor to those of overall society, as the senate would elect a rector that would act in the interest of his electorate. This stable self-reinforcing system was resistant to change (Lithuanian interview no. 2 and no. 19). Hence, the authors of the change deemed it necessary to eliminate academic oligarchy.

All these factors can be interpreted in line with Hood (1998) as the unintended consequences of the self-governance model of university management introduced during early transition. The authors of the change perceived these unintended consequences as a problem, as a result of the new HE institution structuring their behavior. This new HE governance institution started to influence their behavior through on-the-job learning, as defined by DiMaggio and Powell (1991), in this case, through studying the US and English systems. Within this new HE governance institution, the appropriate university management model was one where university was open both to the needs of all its members and of society, and where the university was managed efficiently. Efficient management was possible when academic and management functions were separated. Academics should deliver the former, and the

professional manager, that being a rector working with a body involving external stakeholder participation, should deal with the latter.

The decreased legitimacy of the self-governance model of university management opened the doors to change. The foreign models from England and the US, according to the authors of the 2009 Law, influenced the re-definition of the boards. The authors of the change chose these models because they were in line with what they perceived to be an appropriate model for university management (the rector not being accountable to the members of the university community, but to the wider community; board as strategic management body with prevalent external stakeholders; and senate dealing with academic affairs).

Yet neither of the two models was copied. There were two reasons for the selective use of these models. Firstly, some MPs, who had the role of legitimate policy designers influencing the final form of the adopted law, still perceived as appropriate that the university should be self-managed, as defined in the early 1990s. In other words their behavior was structured by path-dependent rules of appropriateness determining the relationship of university with external stakeholders. This was reflected in the change to the board's composition that took place after the submitting of the law proposal to parliament. The external stakeholders no longer possessed a guaranteed majority, and the education minister was not empowered to nominate the majority of the board members.

Secondly, and more importantly, there was path-dependence concerning the role of the Constitutional Court as legitimate policy designer. The court, unlike the authors of change (MoE leadership), promoted self-governing management of universities, as introduced in the early 1990s. This model included decisive power over universities for academics (the senate remained the key decision-making body). The Constitutional Court as legitimate policy

designer succeeded in diverting the university management model to the path of a more self-governing model.

Despite these limitations in adopting the foreign models, there was still a shift of power in regard to university management in the direction of the board (it approved senate proposals, and participated in rector selection). This was possible for two main reasons. Firstly, unlike during the adoption of the 2000 Law, when the 2009 Law was finalized and adopted the leadership of the MoE was greatly involved, and was leading this process. Change to the boards was a MoE leadership priority. In other words, MoE leadership partly took on the role of legitimate policy designer, influencing the final form of the adopted change.

Secondly, there was more substantial generational change in Lithuanian political parties. The politicians in parliament were legitimate policy designers in Lithuania in regard to university management, influencing the form of adopted laws. A new generation of MPs was less connected to academia, and was more open to accepting different rules of appropriate university management, rules which were promoted by the authors of change (MoE leadership).

4.2.2.3.2 Liberalization of public funding and immovable property use

Changes to the use of public funding and immovable property were quite limited, both in the 2000 Law and its amendments, as well as in the 2009 Law. In both cases they were driven by different factors. In the 2000 Law, it was international experts who pushed for these changes. Almost one decade later the liberalization of funding and property use was promoted by Lithuanian reformers as a motivation for university rectors to accept other parts of the reform they did not like.

4.2.2.3.2.1 Lack of motivation to change public funding and property use in the 2000 Law

There were no strong advocates for liberalization of public funding and property use in MoE leadership. This agenda was advanced by international and Lithuanian experts involved in the

PHARE project. Therefore, this section begins with a description of the changes delivered in public funding and property use in Lithuania in the early 2000s. Following that, the aims of Lithuanian actors are discussed in detail, together with the key actors involved in the changes.

Description of developments in public resource use in the early 2000s

The 2000 Law and its later amendments, introduced between 2001 and 2005, brought about several changes to funding. Several interviewees recalled that the 2000 Law introduced the block grant. The block grant was to allow the university to spend its allocated budget freely on its activities, without it being based on a predefined economic classification of expenditure²⁸ as was the case with line budgeting (Barila et al. 2000). According to one 2000 Law author from the Department of Science and Studies, the introduction of the block grant was one of the key changes of this Law (Lithuanian interview no. 24). However, according to some of the interviewees who participated in the PHARE group proposing changes to HE financing, the 2000 Law and its later amendments did not represent major change in terms of the use of money (Lithuanian interviews no. 4 and 27). In the words of Lithuanian interviewee number 4 (p. 6): “Maybe some small good ideas were included in this law, but **in whole scope it was the same, but only written in another way. The same truth, but in another words.** We are not allowed to have independence in financing.” [emphasis added].

This view is supported by the fact that a number of restrictions on public money use remained in place, and several more were introduced with the amendments to the 2000 Law. The restrictions in the 2000 Law included, according to one MoE representative (Lithuanian interview no. 30):

- limiting the proportion of university budget that could be allocated to wages,

²⁸ Examples of economic classification of expenditure include; payment of wages, social insurance, commodities and services, scholarships, capital construction, fixed assets and other purposes (Antanavicius et al. 2000).

- introduction of wage grid, limiting freedom to set wages and bonuses by defining salaries for individual positions, such as professor, assistant professor, researcher, etc.,²⁹
- requirement for MOE approval in the case of acquiring items costing more than 1000 litas,³⁰
- for bigger investments/larger numbers of items, such as laboratory equipment, universities had to prepare a special project, including a budget and list of items to be bought requiring MoF approval,
- no possibility to keep budget surpluses.

Only one amendment from January 2001 to the 2000 Law liberalized fund use, which abolished the limiting of the proportion of university budget that could be spent on wages (Lithuanian Parliament 2001a). Other amendments introduced further restrictions. The Amendment from December 2001 divided the money allocated to universities into four categories: studies, science, running costs (including small purchases) and investments (Lithuanian Parliament 2001b). The problem with this change was, according to some university representatives interviewed, that switching between these categories required MoF approval, which complicated the procedure. The OECD team perceived this type of budgeting, with its clearly defined categories and difficulties in managing allocated funds, not as a block grant budget but rather as line budgeting (OECD 2002). The academics also viewed it as a problem that university budgets were not allocated once, but on a quarterly basis (Leisyte

²⁹ Lithuanian interview no. 17.

³⁰ 1000 Litass was about 260 Euro in April 2000, according to the Bank of Lithuania exchange rate (<https://www.lb.lt/exchange/default.asp?lang=e>, accessed 11 February 2016).

2002). The academics interviewed also criticized the regulation of salary level³¹ and the insufficient funding allocated to universities.

The 2000 Law introduced a three-year contract between the MoE and the universities, according to which the budget was to be allocated to the universities. This was viewed positively both by the academics and by the MoE. It was supposed to enable universities to plan longer-term. For the MoE it provided greater powers in influencing the outcomes of universities' activities, while before 2000, the MoE had no power over universities in regard to financing. However, this contract was never implemented, and was withdrawn from the law in 2003. This was because the MoE was unsure if it could fulfill its contractual financial commitment for the three year period (Lithuanian interviews no. 8 and 27; Lithuanian Parliament 2003).

Another problem, from the point of view of the rectors interviewed, was that according to Amendment 2003, the non-budgetary resources acquired by the universities had to be transferred to the state budget (Lithuanian Parliament 2003). This money could subsequently be reallocated to the universities. This caused two problems. Firstly, sometimes only a part of the money was reallocated. Secondly, the returned funds, even though originally acquired by universities, were treated as public resources, entailing all the limitations discussed in this section.

The same Amendment (of 2003) introduced another change, which was more important from the position of the MoE, as it decreased its power towards universities. With this the MoE lost the power to distribute money among universities (Lithuanian Parliament 2003). This was in line with the general legislative framework regulating budgetary

³¹ The quantity of the block grant that could be used for salaries was regulated, a limitation which was abolished by Amendment June 2005 (Lithuanian Parliament 2005).

organizations (Lithuanian interview no. 19). According to this Amendment, the parliament began to allocate budgets for individual universities. Interviewee no. 14 explained that this change was introduced based on a Constitutional Court decision, which ruled that allocating budgets to individual universities by the MoE infringed upon university autonomy. As the following quotation shows, the universities as autonomous organizations were to receive money directly from parliament, not from a lower level authority which might have been deciding arbitrarily:

...it was held unconstitutional, that **in the budget you see a line “for studies and science”, and then some executive bodies, ministries or whoever distribute the money and if they want they give one university more, another university – less. No, if they are autonomous institutions and receive finance from the budget, they have to get the money directly on the basis of the law**, which means *ex lege*, no one can redistribute that. Of course it gives the right to the parliament to give more money or less money to a specific institution but **it is for the parliament, not for the ministry, not for some official of lower level**. (Lithuanian interview no. 14, p. 7) [emphasis added].

The shift of budget allocation power to parliament was also convenient for university rectors. Based on the interviews with rectors active in the 1990s and early 2000s, the rectors believed that universities have to be autonomous primarily from the MoE, and more specifically from the education minister, in order to enjoy real autonomy. One reason for this perception could be that many MPs in the early 2000s shared the rectors' views on what an appropriate university management model was.

The final point is that the 2000 Law defined universities as non-profit organizations, while the later amendment blocked this change. In 2005, the status of universities was changed, and they became budgetary organizations (Lithuanian Parliament 2005). This brought them back under MoF control, with strictly regulated use both of state-allocated and acquired funds. This meant that, concerning the use of financial resources, it was more important that universities followed MoF rules than priorities defined by the MoE.

Similarly to public funding use, there were also partial changes regarding property. The 2000 Law and its 2001 Amendment changed university rights over the property they used. The 2000 Law gave universities the right to lease their property. The importance of this change was diminished however, by the 2003 Amendment mentioned already. This amendment stated that resources acquired had to be transferred to the state budget, which were then partially reallocated to the university as budgetary resources, along with all the budget funding limitations (Lithuanian Parliament 2003). Hence, universities were not motivated to exploit this leasing opportunity.

The 2000 Law also enacted a possibility for universities to acquire new property with their own resources, meaning those gained from outside state budget allocation (Lithuanian Parliament 2000). Some universities, as they accumulated extra-budgetary funds, used this opportunity and bought new buildings. The Amendment of January 2001 then allowed universities to have full ownership rights over the acquired property (Lithuanian Parliament 2001a). Yet, once some of the universities owned these properties and started to use them, a court decided that this contravened on State and Commune Property Management, Use and Disposal (Law on State and Commune Property) (Lithuanian Parliament 1998). Thus, these changes could not be implemented.

Key actors involved in changes to public resource use in the 2000 Law

In regard to the 2000 Law, proposals for liberalization came from PHARE team experts working on funding. By contrast, Lithuanian actors had either a passive or opposing role in this process. Lithuanian education minister Platelis, under whom the 2000 Law was prepared and adopted, was, according to interviewees from academia and the MoE, not interested in the liberalization of public funding and property. The following quotation from a former high-level representative of the MoE demonstrates the attitude of the minister well:

I and other bureaucrats **don't trust those who (laughter) are going to spend the money. I can't say much on this topic, because the Ministry of Finance...there was directly financed from the Ministry of Finance and they were taking care about all the structure of expenditure.** (Lithuanian interview no. 18, p. 2) [emphasis added].

This quotation also shows that MoE leadership still viewed public funding use as being more of an MoF agenda, and highlights the MoE representatives' distrust of academics. The chair of parliament's Education Committee also shared this distrust in academics in regard to resource use (Lithuanian interview no. 9). This was important, as parliament's Education Committee changed the 2000 Law proposal, as discussed in detail above.

According to one former high-level representative of the MoE, education minister Monkevicius, in power during the adoption of the funding amendments to the 2000 Law, was not actively against the liberalization of the universities' use of funds. He even supported the idea of liberalization, but did not take any concrete steps to increase it. This was not the education ministry leadership's priority, as they were concentrating instead on other issues, such as the definition of tuition fees (Lithuanian interview no. 37).

Academics, including the rectors, welcomed the idea of block grants, yet they neither initiated nor shaped them. It was not a key concern for them. For them the amount of money received from the state was more important, a figure they viewed as very low. In the interviews, the academics also mentioned the limitations over acquired resources as being a big problem. Another important actor in regard to public funding use was the Constitutional Court, which interpreted university autonomy as involving only a limited role for the MoE in managing funding allocation for universities. This was then enacted by parliament.

The MoF did not favor deregulation of public funding use in the form of block grants. Neither did it favor providing universities with different rights than other budgetary organizations regarding the owning of acquired and public property (Lithuanian interview no. 24). However, according to several interviewees the MoF was not actively involved in

defining block grants. They were more interested in preventing an increase in overall HE spending, and bringing acquired resources under control. According to one of the MoE's high-level representatives, the MoF was active in introducing regulation of acquired resources. The MoF proposed a change to make acquired resources a part of the state budget, and managed to get it adopted in parliament (Lithuanian interview no. 24).

As mentioned already, MoE leadership was quite reserved in regard to universities owning the property they managed. Therefore it was not surprising that MoE leadership did not propose part of the Amendment from January 2001 Lithuanian Parliament (2001), allowing universities to buy the property from resources acquired. The interviewees were unsure regarding the origin of the proposal within this amendment to provide full ownership rights over property acquired to universities. However, the education minister and high-level bureaucrats did not support the empowerment of universities in regard to property use. A high-level MoE representative, who occupied his position during the preparation of the 2000 Law, commented on the potential property transfer thus:

It's always possible that somebody will use their property not in a very good way. We had many examples during privatization from the first days of independent Lithuania. Like everywhere. **This experience made us to be careful** (Lithuanian interview no. 18, p. 3) [emphasis added].

An interviewee from among the academics made the following comment on this situation: "...our Minister would look at university administrators and rectors as they would privatize universities maybe same as enterprises" (Lithuanian interview no. 4, p. 7). Both quotations show that MoE leadership did not trust university management in regard to public property use. This distrust was based on negative experiences with the privatization process in Lithuania.

This reservation towards increased university rights over their property was shared by MoE leaderships, regardless of the politics of the education minister in place (Platelis from

conservative Homeland Union 1998 - 2000, Monkevicius from Social Liberal Party 2000 – 2004, Motuzas from Democratic Labour Party 2004 - 2006, Zakaitiene from Social Democratic Party 2006 – 2008) (Lithuanian interview no. 10). For example, the MoE representative employed when the 2001 amendment was prepared was afraid of universities having too much power over their property: “...**the properties the universities run is in a very prestigious area**, so the involvement of the private sector could be very risky in this case, that is **why the top security has to be added...**” (Lithuanian interview no. 37, p. 5) [emphasis added]. As this quotation shows, one of the main MoE leadership fears was that universities would sell the most lucrative property.

Rectors were not very vocal in regard to transfer of public property to university ownership. Some rectors were interested in property transfer, and were pushing for more rights over property, while others were not supporting the idea of property transfer. In general, rectors accepted the MoE proposals in regard to public property use.

In regard to liberalization of property use by universities, a new key actor appeared in the first decade of the 2000s; the National Audit Office. The National Audit Office, supported by the MoE, contested the idea that universities could start to acquire property from their own funds, and then registering it as their own, using it in any way they wanted (Lithuanian interview no. 10). For state control, the problem was that the possibility to acquire property, and have full ownership rights over it, contradicted the Law on State and Commune Property, Management, Use and Disposal (Lithuanian Parliament 1998). This law was applicable to all budgetary organizations, including universities defined as budgetary organizations by Amendment from June 2005 (Lithuanian Parliament 2005). The Law on State and Commune Property stated that all property (including acquired ones) used by budgetary organizations was state-owned, and should be treated accordingly. The court decided that the Law on State and Commune Property overruled the law on HE (Lithuanian interview no. 10).

International recommendations for change to public resource use in 2000s

All the international reports delivered for Lithuania (Norwegian report, PHARE and OECD) recommended, in line with the ‘modernization agenda’, the liberalization of public fund and property use. Yet, most of the changes adopted in the 2000 Law and its amendments were in direct opposition to the international recommendations. The Norwegian Report from 1996 suggested that universities should have greater freedom within their total budgets (The Research Council of Norway 1996). However, the interviewees did not mention the Norwegian report as being a source of ideas for the introduction of the block grant. According to several interviewees coming from academia, the PHARE project inspired the idea about block grants. The PHARE project also made proposals in regard to public property use. The suggestions prepared under the PHARE project can be found in the following reports: “The White Paper” (PHARE 1999b), “The Polemic Book on Financing of HE Institutions” (Antanavicius et al. 2000), and “The Manual of Good Practice for Higher Education Administrators” (Barila et al. 2000).

“The Manual of Good Practice” recommended that the universities should be independent in disposing of real estate and other material properties. This was how modern universities functioned (Barila et al. 2000). This recommendation was not mentioned by any of the interviewees, and was not taken on board.

The Polemic Book on Financing of HE Institutions (Polemic Book) suggested that universities should be able to use funds transferred to them in any way needed. The use of funds should not be tied to the articles of the economic classification of expenditure, such as payment of wages, social insurance, commodities and services, scholarships, capital construction, fixed assets and other purposes (Antanavicius et al. 2000). The key measure of effectiveness for public funding use should be whether the university was fulfilling its mission. In general, the Polemic Book recommended moving the funding of universities from

MoF to MoE control, which would also have included reporting on public fund use (Antanavicius et al. 2000). As mentioned above, the Constitutional Court removed the MoE's possibility to allocate money to individual universities, and based on Amendment April 2003, budget allocation for individual universities was moved to parliament (Lithuanian Parliament 2003).

The OECD report supported the ideas developed under the PHARE project, and recommended, in line with them, that the role of the MoE should be stronger in relation to the MoF. Hence, financial allocations should be made based on the long-term strategy of the MoE, rather than (as was the case in Lithuania) the fiscal priorities of the MoF (OECD 2002).

A key idea behind the international recommendations regarding public funding and property regulation, was that it should be related to fulfilling HE goals, rather than accountancy and state control requirements. The state (MoE) should define what outcomes the universities should deliver in order to contribute to the country's development, while leaving it to universities' discretion how they achieve these outcomes, and in what way they would use the resources. The state, through the MoE, should influence research and education delivered by universities by declaring what the country's priorities were, and by asking universities to contribute to addressing these priorities. This was why, for the international experts, it was more important that the universities helped carry out MoE-defined HE strategy, rather than follow accountancy rules. PHARE experts also stressed that universities could not react efficiently to constant changes to the economic and social environment unless they had freedom of resource use (Barila et al. 2000).

The Polemic Book further advised allowing universities to have their own remuneration policy, since it would allow them to pay salaries more rationally (Antanavicius et al. 2000). The only change in this regard was the abolishing of the limit on university budget

resources allocated to wages (Lithuanian Parliament 2001a). In general though, university remuneration policy remained state regulated, because universities continued to be obliged to follow the state-defined wage grid.

This report further suggested that the law on state budget should not treat the universities as budgetary organizations (Antanavicius et al. 2000). Despite this recommendation, the Amendment from June 2005 changed the status of universities from non-profit to budgetary (Lithuanian Parliament 2005). The problem was that fund use by budgetary organizations was strictly state-controlled. This included, for example, line budgeting (the need to use money according to economic classification, with limited possibility to shift money between categories); lack of freedom in setting wages; no option to keep budget surpluses; limited MoE control over allocating money to individual universities (Antanavicius et al. 2000).

The White Paper proposed that money should be allocated to universities based on the contract with the MoE. The contract would reflect the contribution of the concrete university to fulfilling the state plan for HE, as defined by the MoE. The contract should be for at least three years (Antanavicius et al. 2000). Even though three-year contracts between the MoE and universities were enacted with the 2000 Law, they were never implemented, and were subsequently abolished by Amendment from April 2003 (Lithuanian Parliament 2003).

Interpretation of findings on public resource use in the early 2000s

In the area of public fund and immovable property use, there were four main reasons for not following (or instead, even moving in the opposite direction from) the international recommendations in line with the 'modernization agenda'. Firstly, the authors of change were international experts, having no influence over the design and adoption of the 2000 Law and its amendments. Secondly, there was path-dependency regarding who the legitimate policy

designers influencing the adopted policy were (MoF). Thirdly, the rules of appropriateness regarding fund and property use structuring the behavior of the legitimate policy designer were path-dependent, as they were introduced in the early 1990s. Fourthly, the path-dependent appropriate rules also structured the behavior of the new legitimate policy designers for public funding use (parliament, Constitutional Court) and for public property use (National Audit Office). As such, it was deemed appropriate that fund use was strictly regulated by the state, represented by the MoF, and it was not a part of university autonomy. In the case of public property use, it meant that the state was the owner of property administered by universities.

The path-dependency of the rules of appropriateness structuring the behavior of the legitimate policy designers had two impacts. Firstly, since the early transition model of fund and property use was still viewed as legitimate, it was not open to change. Secondly, the internationally promoted ideas were not seen as appropriate. For the actors in Lithuania, it was important that the state controlled how public money and property were used, but the question of how resources contributed to delivering outcomes recommended by international reports carried less weight.

What made it even more difficult to use international suggestions was the imperative that resources should be used according to a HE development strategy defined by the MoE and universities. This was when the Constitutional Court decided that parliament, and not the MoE, should allocate budgets to individual universities. It was what Thelen (1999) identifies as a functional positive feedback mechanism. The Constitutional Court reinforced the logic of the system in place, whereby the MoE had limited power over universities, and parliament was a legitimate actor in defining policies on HE education, including the policy on allocating the budget to individual universities.

The lack of ‘modernization agenda’ use was a result of another factor rooted in the past. This was the education ministry leadership's distrust of academics, which contributed to the MoE's reluctance to liberalize fund use. This distrust can be interpreted as a result of two things. Firstly, the early transition, when academics pushed very hard for, and achieved significant independence from the MoE, and secondly, a reaction to the unintended consequence of university self-governance. Both the MoE leadership and other actors in the early 2000s perceived this system of management as contributing to the formation of self-contained universities led by academic oligarchies, interested only in their own benefits and thus not sufficiently trustworthy to be awarded financial autonomy and ownership of university property.

In regard to public property use, distrust in academics was reinforced by the unintended consequence resulting from the economic institution introduced in Lithuania during transition. This institution deemed it appropriate that property previously owned by the state, such as state companies, should be privatized. However, some people involved in the process abused privatization for their own benefit. Negative experiences of privatization in Lithuania, together with the distrust of academics, led to the expectation that some individuals within universities would use the transferred property for their own profit.

The final point is that there was no strong advocate in favor of the liberalization of public fund and property use, except for the international experts. Even for rectors this was not the main concern, and their behavior was structured by the early transition HE governance institution, in that the state was considered responsible for providing and managing public funds, and it should own property used by universities.

4.2.2.3.2.2 Change to public funding and property use through the 2009 Law

The main idea behind the liberalization of fund and property use through the 2009 Law, was to motivate rectors to accept other parts of the reform which they did not agree with, such as

empowerment of the board and the introduction of vouchers³² (Lithuanian interview no. 23). More liberalized use of resources was linked to a shift of universities from budgetary to public organizations. Since the new form of organization would provide benefits in regard to fund and property use, it would be more difficult for rectors to reject the whole reform (Lithuanian interview no. 23). Simultaneously, the universities could not enjoy the new rights unless they changed their management structures.

Another aim was to enhance university autonomy as defined by the Constitutional Court, and to increase competitiveness among universities. This goal was pursued through the liberalization of wages. According to an interviewee involved in designing regulation of public funding use, the changes meant that the proportion of the overall budget that could be spent on wages would no longer be prescribed.³³ The wage grid was abolished, and there would be no more limits on bonuses (Lithuanian interview no. 30). There was no other change in other areas of public fund use, while more liberalization was introduced for acquired resource use. The rectors welcomed these changes.

Not much changed in regard to public immovable property use. Most of the immovable property used by universities was formally handed over to universities based on a 20 year trust agreement, under similar conditions to property management in the 2000 Law, meaning that universities remained administrators of state owned property (Lithuanian Parliament 30 April 2009b; Lithuanian Parliament 2000). In certain cases, which had to be well argued for, the government could decide to transfer the property to the real ownership of the university (Lithuanian interview no. 10; Lithuanian Parliament 2009b). One of the law's authors offered an example of how this should work. The government was willing to transfer Vilnius

³² Vouchers were not favoured by small universities with a limited number of students, as more students meant more funding through vouchers (Lithuanian interviews no. 16, 21, and 31).

³³ Only 90 % of the block grant from the budgetary resources could be used for wages. However, the rest of the money could be allocated from acquired resources (Lithuanian interview no. 30).

University buildings in the city center to the university's real ownership. The university was then entitled to sell them on the condition they use the money to build new buildings on the new campus, which would help put students and professors of some faculties on one spot (Lithuanian interview no. 19). In other words, the government had its own ideas about what constituted good use of university property. In addition, as this interviewee added, the buildings' land remained in state ownership (Lithuanian interview no. 19). Hence, even in the case of property transfer to university ownership, the state had means of controlling its use. With the 2009 Law, universities gained freedom in terms of using new property acquired from non-budgetary resources (Lithuanian interview no. 10).

There was general resistance to property transfer, because a number of people perceived the past scandals as a problem, although the interviews revealed only two such scandals. The first being when Klaipeda University rented its land to a shopping mall to gain extra budgetary resources for constructing new buildings it needed (Lithuanian interview no. 14). The second was from the early 1990s, when the rector of Vytautas Magnus University in Kaunas, together with other people, built their cottages in the university's botanical garden. In the case of Klaipeda University the problem was that it was seen as inappropriate that a private business unrelated to HE used the university's premises. In the case of Vytautas Magnus University, the problem was that individuals profited from university-managed property. One of the former MoE high-level representatives noted that these scandals concerned only a tiny part of all university property, but they left a big impact on public opinion (Lithuanian interview no. 26).

Description of actors in regard to public fund and property use in the 2009 Law

The changes to public fund and public immovable property use were proposed by the education minister's team. One of the interviewees from the MoE recalled that the original proposal of education minister Steponavicius was more liberal, and he wanted to transfer all

the property to university ownership. Yet due to pressure from all groups of actors, and the distrust of rectors, the education minister gave up his idea quite early in the process of law negotiations (Lithuanian interview no. 19).

In the case of changes to fund use, the MoF did not take up a very active position, and accepted the changes proposed by the MoE. However, in the case of property transfer it was different. One 2009 Law author described the cooperation with the MoF as follows:

These articles [on property] in the law were constructed together with the Ministry of Finance. **It was quite good as there are specialists.** At the beginning **we wanted to put something more free**, but in these discussions with the Ministry of Finance, **they said something about potential dangers...** (Lithuanian interview no. 19) [emphasis added].

This quotation shows that, in fact, the law authors accepted the MoF views as expert opinions. Simultaneously, the authors of the 2009 Law did not have a clear idea about how exactly to liberalize public property use. This was reflected by the property transfer proposal not being as well developed as other parts of the law, as one of the team members preparing the 2009 Law proposal noted (Lithuanian interview no. 21).

Another important actor was the Parliament's Audit Committee, which the Parliament's Education Committee asked to provide its opinions (Lithuanian interview no. 38). The Audit Committee was strongly against the transfer of public property to universities, as one MoE employee involved in designing the property transfer part recalled (Lithuanian interview no. 10). That was why, in the view of this interviewee, trust agreements were introduced. As mentioned above, the trust agreements meant that universities became administrators (but not owners) of the property they used for 20 years. One of the 2009 Law authors noted that the Audit Committee was also suggesting further regulation for

empowering the government³⁴ as a safeguard, so that university people would not sell property for their own benefit (Lithuanian interview no. 19). In the view of this interviewee, the regulation of property use and transfer was well defined in the end, even with the additional safeguards. With such regulation, MPs and people from the MoE could feel less afraid that property would be abused. Also, other authors of the 2009 Law welcomed further regulations of property transfer, meaning that rectors would not be able to personally benefit from it (Lithuanian interview no. 2).

Political parties across the spectrum had the same view on public funding and property use by universities, meaning that in each party, while there were some supporters of liberalizing resource use, most of their members opposed it. The possibility to make universities public organizations, with more liberal regulation regarding resource use, had already been discussed under Social Democratic education minister Zakaitiene, who preceded Steponavicius in office (Lithuanian interview no. 23). Property transfer was also an area that cut across political lines. As discussed above in regard to property transfer, education ministers before 2008 from different political parties were cautious, and did not favour property transfer. In the case of the 2009 Law, the main supporter of property transfer was the education minister Steponavicius, coming from the liberal party, which ideologically supported such changes. However, as one of the representatives of the conservatives noted, their party also being part of the government, the minister could understand that this would not be supported in parliament, because the conservatives requested safeguards (Lithuanian interview no. 2). The opposition social democrats were also not supporting complete property transfer, and preferred the solution adopted in the 2009 Law (Lithuanian interview no. 22). The liberal leadership of the MoE was, in the end, satisfied with stricter regulation of property

³⁴ The government gained the power for example, to define the form of the trust agreement about property use by the university. The Government had to agree to transfer of the property to the full ownership of the university (Lithuanian Parliament 30 April 2009b).

transfer, as it had a problem trusting university rectors not to abuse it (Lithuanian interview no. 19).

Rectors did not actively demand changes to public fund and property use, but they did welcome them, and according to the rectors interviewed, did not demand anything more. In regard to property, one of the key opponents of the 2009 Law noted that they were not so keen on property transfer, because the new board was supposed to have power over property, while its members were to a large extent supposed to be nominated by the education minister (Lithuanian interview no. 11).

International recommendations and foreign model for use of public resources in 2009

During the preparation of the 2009 Law, only a few international recommendations were made concerning liberalizing public fund and property use. These went in the direction of the ‘modernization agenda’, meaning more liberal use. However, none of them were used in defining the 2009 Law.

In regard to public funding use, there were few new recommendations. From reports prepared prior to the 2009 Law, only the strategy delivered under the British Council project stated that universities should be able to borrow money, set salaries and spend the budget in the way they consider necessary (British Council 2007). None of the interviewees made reference to this strategy, even though the possibility to borrow money and the freedom to set salaries were introduced with the 2009 Law. There was also no reference made to earlier international reports recommending changes to the regulation of fund use.

The report prepared under the British Council project also mentioned that universities should own their land, buildings and facilities, yet none of the interviewees made reference to it (British Council 2007). On the contrary, one of the law's authors defended the idea that the universities should not own the land (Lithuanian interview no. 19).

The World Bank promoted the transfer of buildings to university ownership in order to free up more resources for universities, enabling them to use those buildings as guarantees to gain bank loans for building repair, and to be more flexible in their property use i.e. to sell what they don't need (World Bank 2003b). One of the main authors of the 2009 Law was aware of these recommendations, but the interviewee did not see them as important, because he considered the discussions about property transfer to be merely technical, not a question of new principles: “But these discussions were about how to find a legal form of the state universities. The state universities to allow to have their own property and **it was not quite a question of some principles, but it was a legal question.**” (Lithuanian interview no. 19, p. 5) [emphasis added]. Another interviewee, an MP, confirmed that property transfer was defined based on local legislation regulating public organizations (Lithuanian interview no. 38).

The Estonian model of gradual property transfer was considered (Lithuanian interviews no. 10 and 19). However, according to one of the interviewees involved in defining the regulation on property transfer, Estonia had a different legal system, and thus the authors of change had to find their own legal solution for Lithuania (Lithuanian interview no. 19). This approach was reflected in a number of differences between the Estonian and Lithuanian systems. Most importantly, Estonia introduced trust agreements for only 10 years, a time period during which government could observe whether there was any abuse of property use by the universities. After this period, in 2010, property was automatically transferred to university ownership (Lithuanian interview no. 10). In Lithuania, the trust agreement was designed for 10 years more than in Estonia, and the 2009 Law did not stipulate automatic transfer after the 20 year period had expired. Hence, property transfer in Lithuania was far more limited than in Estonia.

Interpretation of findings on change to public resource use in the 2009 Law

Similarly to earlier changes to public funding and property use, the sitting HE governance institution did not lose legitimacy during the 2009 Law changes in regard to these policies. Firstly, the behavior of the author of change (MoF) continued to be structured by the HE governance institution introduced in early transition, which decreed that state should be directly responsible for managing funding and owning property used by universities. This institution also structured the behavior of the legitimate policy designers in 2009 regarding funding (MoE, parliament) and property (MoE, parliament's Audit committee).

The importance of the early transition HE governance institution regarding public property use was underlined by how the Klaipeda University case was viewed, according to all the interviewees. The majority of actors considered it problematic that this university tried to generate funds by using its land for commercial purposes, not academic ones. How the university used the land was viewed as more important than whether the activity was leading to the achievement of better academic goals (better premises for its academic work).

Secondly, the early transition rules of appropriateness structuring the behavior of all actors in Lithuania clashed with those behind the recommendations from the international reports. While, according to the former, the important point was how resources were used, for the latter it was more important whether resources facilitated the achievement of HE goals, as defined by the MoE and universities.

Yet partial changes introduced some level of liberalization. These changes were mainly driven by the new HE governance institution, and were not related to public funding and property use, but rather to the involvement of external stakeholders in university management. In this area the MoE was the author of change and, as discussed in detail in the section on university boards, the 'modernization agenda' and models from abroad structured its behavior.

One important idea of the new management structure promoted by the MoE was that universities should be more open to the needs of society, which meant that their quality (which was perceived as low) should improve. According to MoE leadership, one way to achieve this could be through increased competition among universities. In the MoE view, this competition would call for greater freedom in setting wages, so as to be able to attract good quality staff. Hence wages were liberalized. Also, the Constitutional Court supported this liberalization, albeit for a different reason. Namely, they perceived the ensuring of this freedom to be a part of university autonomy (Lithuanian interview no. 30). The court decided on this based on the path-dependence of its role as legitimate policy designer concerning university autonomy. In short, liberalization of wages was driven by a combination of path-dependency (Constitutional Court as legitimate policy designer promoting university autonomy) and by the ‘modernization agenda’ in the area of university management (universities serving needs of society).

The liberalization of public property use was motivated mainly by its role as support of introduction of changes to university management. In the case of the property the idea was that larger freedom in property use was supposed to motivate the rectors to accept changes to management and funding allocation (introduction of boards and vouchers). However, what the rectors saw as a bigger motivation was the liberalization of use of the acquired resources. The use of these resources was no longer viewed by authors of the change as being in state hands and hence it was not key that the state does not manage the acquired funds directly. Public resources use was changed much more moderately, because in regard to their use the rules of appropriateness of state being owner and manager introduced in early transition were still in place.

The dual approach to public property (supporting the ‘modernization agenda’ in university management, while at the same time maintaining state ownership and management)

explains why the Estonian model was chosen as an inspiration for transfer of state property to universities. The Estonian model provided an example of cautious, gradual property transfer, in this case property mainly being managed under trust agreement, and only in some cases transferred to real ownership. So on the one hand, the need to provide a motivation in the form of a possibility to own public buildings was satisfied. On the other hand, it was in line with early transition HE governance institution practice regarding public property use, according to which it was appropriate that the state directly managed public property.

Path-dependency in the appropriate model of public property use was one reason for the limited use of the Estonian model. The second one also originated from the past. It was the distrust of academics. If they got more freedom in using public property, then they would abuse those resources. This was a result of the unintended consequence of the large organizational autonomy for universities introduced during early transition. This type of autonomy led, in the view of the 2009 Law authors, to universities being self-contained and run by academic oligarchy maximizing their own benefits, and hence not being trustworthy. The distrust was exacerbated by the widely cited case of Vytautas Magnus University, where the rector used his position to benefit from its property.

The final point is that in 2009, as in 2000, there was no strong advocate in favor of liberalizing public fund or public property use. The rectors did not demand more than was proposed. Some were not supporting change to property use, because it was connected to the introduction of boards whereby the minister originally had an important role in nominating its members. However, in general the behavior of rectors was, in regard to public property and funding use, shaped by the HE governance institution introduced in early transition, according to which the state directly owned and managed public property and funding

4.2.2.3.3 Centralization of university management

In the area of university internal organization and management, there was no change in the rules of appropriateness structuring the behavior of Lithuanian actors who had the role of legitimate policy designers influencing the final form of the adopted policy. According to these rules, internal organization and management was up to the universities. This was further reinforced by the Constitutional Court ruling from 1994 clarifying what university autonomy is, a ruling which reinforced these rules of appropriateness. According to this, university autonomy included the right to determine and establish organizational and management structure (Constitutional Court 1994). The only parties promoting changes to this area throughout the 2000s were international experts.

Several international reports delivered for Lithuania pointed out the internal fragmentation of universities as something problematic and in need of change. This was the case for two reports providing recommendations for the 2000 Law (The Research Council of Norway 1996; PHARE 1999b) and two reports preceding the 2009 Law (British Council 2007; Beatson et al. 2007). The Norwegian report suggested that there were too many small units within universities, and that they should be merged in order to allow for flexibility, multidisciplinary research and optimal use of resources (The Research Council of Norway 1996). Three years later The White Paper pointed out that heads of lower level units (departments and faculties) should not be elected bottom-up, but should be appointed in order to increase the efficiency both of these units and of the whole organization. The appointment of the units' heads would, according to the White Paper, increase the scope for university leaders to influence the organization units' activities, as well as the personal responsibility for the whole organization (PHARE 1999b). Both documents stressed the need to integrate more the internal organization and management of universities. Eight years later the European Research Area Committee noted that the autonomy of faculties was an obstacle for

entrepreneurial university (Beatson et al. 2007). The project delivered under the British Council advocated the introduction of a centralized top-down approach to the appointments of lower level managers, in order to decrease the dependence of leadership on internal interest groups (British Council 2007).

The Lithuanian reformers reflected these recommendations neither in the 2000 nor the 2009 Law. Only four out of all 40 interviewees mentioned the internal fragmentation of universities as a problem. And even these four interviewees did not see it as a major problem in Lithuanian HE. Furthermore, according to all the interviewees the internal organization of universities is a part of autonomy, and should be decided on by the university itself. This view is well expressed by the following quotation, from a former high-level MoE official:

This internal fragmentation of academic world, disciplinary fragmentation, departmental fragmentation was felt and everyone agreed it's not very good for the institutions... **We felt that there are questions but they should be solved with the means of governance of universities themselves**, internal governance with external participation. But this is not a question for the ministry to design the internal structure of the university that was no question. (Lithuanian interview no. 23, p. 13 - 14) [emphasis added].

Interpretation of findings through the analytical framework

The main reason for lack of change and not using the international recommendations was that the authors of change were the international experts, and they did not have influence over the adoption of change in universities' internal organization and management. The legitimate policy designers, the academics, held the influence from universities who were path-dependent from the early transition. In addition, the rules of appropriateness structuring the legitimate policy-designers' behavior were path-dependent. Hence, during the 2000s, just as during early transition, the legitimate policy designers considered it appropriate that each university should define its internal management and organization, and that no external stakeholder should intervene in this.

4.2.3 Factors influencing change in the three areas studied

The above analysis shows that there were some similarities in the factors influencing changes within each of the reform waves in the 2000s. This section concentrates on summing up these similarities, as well as pointing out differences. The two waves of change need to be separated, because there was one major difference between them. At the end of the 1990s and beginning of the 2000s, the authors of change did not have an influence over the adoption of the 2000 Law, and hence the changes promoted by them in line with the ‘modernization agenda’ were not adopted. By contrast, the team preparing the 2009 Law was also greatly involved in the law's adoption process, and therefore more of the changes they proposed were adopted.

4.2.3.1 Factors influencing (lack of) change related to the 2000 Law

The change, or rather lack of change evident in the present dissertation as related to the 2000 Law, was characterized mainly by path-dependencies and a lack of advocates for change in line with the ‘modernization agenda’. In the area of university internal organization and management, and of fund and property use, the authors of the change were international experts without any impact on the policy adoption process. The policy adoption process was under the influence of the legitimate policy designers (in regard to internal organization, the academics, concerning use of resources, the MoF, parliament, the National Audit Office, and the Constitutional Court) whose behavior was structured by the path-dependent HE governance institution (according to which the university was responsible for defining its internal organization and management, and the state should be owner and manager of funding and property). In addition, in both of these areas there was no strong advocate in Lithuania for major change in line with the ‘modernization agenda’ promoted by the international reports.

In terms of public fund and property use, one other factor influenced the lack of change. That was the distrust in academics, the fear that they would use public funds and property for private benefit, and not for the benefit of the university and society. The distrust

was a reaction to the unintended consequence of the self-governance introduced in early transition that led to the formation of self-contained universities run by academic oligarchies.

Path-dependencies also contributed to limited change regarding the introduction of external stakeholders into university management. Path-dependencies were connected to legitimate policy designers (rectors, parliament) and the rules of appropriateness structuring their behavior (self-governed university). There was path departure in regard to the authors of change (from academics to bureaucrats), but their impact was limited by their not having influence over the final form of the adopted policy, which was under the control of the path-dependent legitimate policy designers.

4.2.3.2 Factors influencing changes related to the 2009 Law

In regard to the 2009 Law, there were four instances where change was influenced by the same factor. Firstly, new appropriate rules structuring the relationship between university and external stakeholders contributed to the empowering of boards. These rules also influenced funding and property use, whereby wages were liberalized in order to increase university responsiveness to the needs of society, by enhancing university quality through greater competition. Property use became liberalized in order to make rectors more open to accepting the empowerment of boards.

Secondly, academic oligarchy as an unintended consequence of self-governance caused distrust in academics. This contributed to the only partial translation of the Estonian model of property transfer, and of the US and UK board models. The translation of the foreign models was made in such a way as to eliminate academic oligarchy (empowering boards) and limit its potential negative impact (cautious liberalization of public fund and property use).

The third common factor was that, as in 2000, among the Lithuanian actors promoting changes to internal organization and management and resource use, there was no strong advocate for the ‘modernization agenda’ promoted by the international reports.

A fourth common factor was path-dependency. In the case of internal organization and management, as in the 2000 Law, the authors of change were international experts without influence over the final form of the adopted policies. This form was under the control of the path-dependent legitimate policy designers (academics), whose behavior was shaped by path-dependent rules of appropriateness (university deciding about its internal organization and management). Hence there was no change in this area.

Regarding external stakeholder involvement in university management, there was path-dependency concerning the legitimate policy designer (rectors and Constitutional Court) who continued to shape this policy in line with the model introduced in early transition, the self-governed university. Yet generational change within political parties decreased the influence of rectors as legitimate policy designers, while opening up a larger number of MPs to a new HE governance institution model, based on the idea that the university is open to the outside world.

Finally, in regard to public fund and property use, there was path-dependency regarding the author of change (the MoF), whose behavior was still shaped by the HE governance institution introduced in the early transition (direct state management and ownership of public funds and property). The behavior of the legitimate policy designers in regard to the use of public funding and property (the MoE, MPs, and parliament’s Audit committee) was the same institution as the one shaping the behavior of the MoF. The limited change to public fund and property use was also influenced, just as in 2000, by distrust in academics and their willingness to use resources for the benefit of the university and society.

4.3 Romania

4.3.1 Early transition in Romania

Romania's break from communism was triggered by riots in Timisoara on 16 December 1989.

This marked the beginning of major changes across the whole of its society, including its higher education. The early transition HE governance institution was designed and built up over the period 1989 – 1997. It was characterized by the autonomy of its academics in deciding about the management and internal organization of universities. What was of further importance was that it remained appropriate that the state was the manager and owner of the public property and funds used by the universities, while the universities were designated administrators of the property they occupied.

There were four developments that contributed to the design and reinforcement of the HE governance institution. The first was the changes initiated by academics and students to the internal organization and management of universities between 1989 and 1995 (Romanian interview no. 32). The other three involved new legislation on HE: Law on Education 84 adopted in 1995 (1995 Law), Law on Public Finances 10 adopted in 1991, and the Teachers' Statute 128 adopted in 1997 (Teachers' Statute).³⁵

4.3.1.1 Events leading to the design of the early transition HE governance institution

Changes at university level led by academics (1989 – 1995)

During the early 1990s academics in Romania had a free hand in introducing changes to HE. Miroiu (1998) characterized the 1990 – 1993 period as a spontaneous transition in HE. At that time academics faced a unique situation, as the state did not have the capacity to develop new legislation in HE. Universities moved faster than the MoE in defining university autonomy, and the MoE was rather reacting to changes they had introduced (Mihailescu and Vlasceanu

³⁵ In Romania, as in Lithuania, university autonomy was enshrined in the constitution in 1991. However, unlike in Lithuania, this did not play a major role in the ensuing policymaking process in terms of the interpretation of autonomy, and so is not discussed. Another change that took place during the early 1990s was the Law on Accreditation from 1993. This Law had no impact on the policies studied in this dissertation, and is hence not discussed in detail.

1994; Miroiu 1998). The leitmotif of the changes in this period was to address the biggest problems inherited from communism (Mihailescu and Vlasceanu 1994), while simultaneously introducing university autonomy; making universities independent from the state, and moving away from the system characterized by the direct control of communist party (Romanian interview no. 13).

The spontaneous and rapid changes at university level are well illustrated by the concrete examples provided by one of the academics interviewed, a man who was involved in these processes. He recalled that the University of Bucharest changed its leadership as early as the end of December 1989, when it organized general elections to select three academics to represent the university to the MoE. The University of Bucharest was not the only university undergoing such processes. About 90% of universities elected new rectors as early as 1990 (Romanian interview no. 32).

Besides introducing a new model of university management and internal organization, discussed in detail below, a new appropriate policymaking process was introduced after 1989. Academics became active in political parties. Many rectors and professors were both members of political parties and of parliament. As a former rector puts it: “The first question I was asked by a journalist when I was elected as a rector [in 1996], it was a day later, she asked me what party I belong to, and I said none. And she said, God, it’s going to be hard for you.” (Romanian interview no. 22, p. 9). The same interviewee added that it was prestigious for parties to have rectors as members. As a result, politically active rectors and other academics had the chance to influence policymaking process from within the political parties, across the political spectrum. From the point of view of my analytical framework, it is important to point out that academics gained the roles of both author of change and legitimate policy designer in the HE governance institution design stage.

Law on Public Finance from 1991

The MoF personnel designed the Law on Public Finance as a general law for all public organizations in Romania. At that time, authors of change in HE were not interested in designing the rules for public fund use. Rather they were concerned with the level of funding for universities (Romanian interview no. 13). Since the MoF designed the regulations of fund use by universities, they reflected its perception of the appropriate rules in this area. More concretely, it was deemed appropriate that the state closely controlled the public fund use by the universities. As one of the former high-level MoE bureaucrats puts it: “They [MoF] want to have full control of everything within state universities.” (Romanian interview no. 21, p. 5). What exactly the close control of fund use meant is discussed in detail in the subsection analyzing the definition of appropriate rules for public fund and property use during the early 1990s.

Preparation of the 1995 Law

The 1995 Law replaced the last communist Law on Education 28/1978 (1978 Law). For the MoE leadership, a key aim of the 1995 Law was to design a coherent system in education. Between 1989 and 1995 about 2000 decrees and ministerial orders on education were issued (Romanian interview no. 13; Eisemon et al. 1995). The 1995 Law was not supposed to bring major changes as compared to practices introduced after 1989 (Romanian interview no. 13). Its role was to codify the university autonomy introduced after 1989, and to serve as an umbrella law. Specific bylaws on funding, teachers’ statute and the like were expected to follow later (Romanian interviews no. 12 and 37).

The 1995 Law was adopted five years after the regime change. According to the interviews, there were two reasons for adopting the first post-communist law relatively late. The first was that a lot of energy had been invested in the early 1990s into the preparation and

adoption of the Law on Accreditation (adopted in 1993). The second reason was that the reform team was waiting for the reports prepared by the World Bank and UNESCO, which were ready by 1994 (Romanian interview no. 33). As discussed at the end of this section, these reports influenced different policies from those studied here. Yet as the policies impacted upon by the reports formed part of the same 1995 Law, the adoption of all changes, including those studied in this dissertation, had to wait for the international reports.

The 1995 Law was prepared by a group of academics from universities led by Ioan Mihailescu, Catalin Zamfir and Lazar Vlasceanu. In the areas studied in this dissertation (centralization of university management, public fund and property use, relationship of university to external stakeholders) the 1995 Law was agreed to by the Romanian Rectors' Conference, comprising rectors from public universities,³⁶ and there were no amendments made in these areas in parliament. The agreement of the rectors was important, because in the early 1990s the Rectors' Conference was a strong organization, and the MoE leadership and MPs respected it highly (Romanian interviews no. 9, 10, 12 and 13).

If we employ the proposed analytical framework to look at the policymaking process leading to the adoption of the 1995 Law, then it is possible to ascertain a positive feedback mechanism, as defined by Thelen (1999). This functional positive feedback mechanism assisted in reinforcing the role of the rectors and academics as legitimate policy designers in regard to the HE governance institution.

Preparation of the Teachers' Statute from 1997

The Teachers' Statute represented one of the laws intended to address more specific issues not regulated in the 1995 umbrella Law. The key aim of the Statute was to regulate the teaching profession overall, and the issue of teachers' salaries in particular (Romanian

³⁶ After 1996, rectors of private universities were also part of the Rectors' Conference (Romanian interview no. 13).

interview no. 37). The Statute was prepared in the mid-1990s, at the time when Liviu Maior was just ending his term as education minister and Virgil Petrescu was about to replace him. According to the interviewees, the members of parliament's Committee on Education, Science, Youth and Sports drafted this law in cooperation with the Trade Unions (Romanian interviews no. 33 and 37). The Statute included articles on the internal organization and management of the universities. Yet, since the Statute was prepared only by a small group of MPs, most of the interviewees were not aware of this part of the Statute.

Lack of international influence

From the early 1990s on a number of internationally supported initiatives were introduced in Romania. However, they did not influence the content of the three policies studied in this dissertation. The UNESCO European Centre for Higher Education (UNESCO-CEPES), located in Bucharest, was involved in generating ideas for HE reform (Romanian interview no. 33). In preparation for the World Bank (WB) loan contracted in 1996, from 1992 to 1994 international experienced World Bank-financed experts prepared analysis of the problems, along with suggestions for their solutions, based on models from abroad (Romanian interviews no. 33 and 21). Some of the suggestions from the reports prepared with the help of the WB and UNESCO-CEPES were incorporated into the 1995 Law (Romanian interview no. 33). However, these ideas did not influence the three policy areas studied here.

The only role international organizations had was in supporting the passing of the 1995 Law. The education minister Maior (in office 1992 – 1996) invited the head of UNESCO, Federico Mayor Zaragoza, to give a speech in the Romanian parliament during the adoption of the 1995 Law. Zaragoza supported the law in his speech (Romanian interview no. 13). Hence UNESCO, represented by its head, played a legitimizing role in regard to the 1995 Law.

4.3.1.2 Early transition HE governance institution in Romania

Change to university internal management

Until 1995, the policy on internal management (university internal organization and management) was changed as a result of the spontaneous actions of academics at university level. The practices introduced by academics after 1989 built on the formal structures in place before the fall of communism. Pre-1989 university internal organization was discipline-based, at the level of faculties and cathedra³⁷. The final communist law (1978 Law) formally outlined the management layers such as dean and head of cathedra (Grand National Assembly of Romania 1978). Academics made changes that strengthened these formal structures during the early 1990s. This contributed to the development of relatively decentralized management and internal organization of universities.

Prior to 1989, the election system and the power structures within the universities were a combination of bottom-up and top-down approaches. For example, the members of the faculty elected the faculty-level professorial council (bottom-up approach) but the university-level senate had to approve the faculty's professorial council composition (top-down approach) (Grand National Assembly of Romania 1978). However, all of these structures were rather formal before 1989. As the university was under direct Communist party control, the party decided who will lead the university and the faculty (Romanian interviews no. 37 and no. 12).

After 1989, the internal organization of universities was preserved in regard to the subunits (faculty and cathedra), yet the definition of their functions changed. Faculty was defined as the base functional unit of the university, organized around study programs and domains of specialization. The cathedra was the faculty's base organizational subunit,

³⁷ Faculty was basic administrative structure of the university. Cathedra was a subunit of a faculty, organized around identical or related specializations (Grand National Assembly of Romania 1978).

structured around a discipline or family of disciplines (Romanian Parliament 1995). The departments, another subunit of the university, had more of a horizontal function, serving different parts of the university. The scientific research department illustrates this horizontal role, as it provided support for the researchers across the university, such as coordinating information pertaining to particular research projects (Romanian interview no. 12).

After the regime change, the universities introduced their own bottom-up election systems and management structures. The rationale was the introduction of self-governing mechanisms at each level of management (Romanian interview no. 8). This meant that the lower level representation elected the higher-level one, and the managers of the lower level units were represented in the university level senate. For example, the head of cathedra nominated members of the faculty senate³⁸ who then elected the members of the university level senate.³⁹ This bottom-up pyramid structure led to the same individuals being involved in management at different levels of the university. In short, the management structures after 1989 were not new, but they gained new functions, and power over these structures was transferred from the Communist party to the academics.

The 1995 Law and the 1997 Teachers' Statute reinforced the appropriate rules of university management and internal organization introduced right after 1989. The 1995 Law codified bottom-up elections for university management and self-governance at each managerial level. The law also stipulated the internal division of the university into faculties, cathedra and departments. By this, it also codified the already existing practice of internal organization. The Teachers' Statute adopted in 1997 further reinforced the internal

³⁸ The faculty level collegial body is called council in Romania. Yet it has the same functions as an academic senate. I use the term academic senate in Romania, because in the other two countries studied the faculty level body is also called academic senate. Using the same terminology for similar bodies should make the reading of the cases easier.

³⁹ The data about the election mechanism after 1989 have been extracted from the interviews, as the details are not available in the law.

organization and management introduced after 1989 and enacted in the 1995 Law. It included some additional regulations of internal organization and management, such as specifying in more detail the governing bodies (for example, composition of the cathedra's management) and the definition of university subunits (for instance, it defined how many teachers are required for a cathedra) (Romanian Parliament 1997). This, in turn, contributed to the definition of the internal formal borders within university.

What is interesting in regard to the changes leading to the introduction of powerful self-governing university subunits, is that this was not an explicitly stated goal. Rather, it seems to be a result of combining formal structures in place before 1989 with the new democratic mechanisms introduced after 1989. These mechanisms were built on the idea that academics at all levels should have the right to decide about their representation (Romanian interview no. 20).

Lack of liberalization of public funding and immovable property use

New rules adopted after 1989 regulating universities' public funding and property use tended towards relatively tight regulation. The general Law on Public Finances from 1991 regulated the use of public funds (Romanian Parliament 1991). This law stipulated that the budget should be allocated to universities according to specific economic categories, such as salaries, running costs, investments etc. Switching between the categories was a difficult process, requiring MoE approval. The rationale was that the state should closely control public funds allocated to the universities. There were no specific regulations for universities in the early 1990s.

Neither the academics active after 1989, nor the experts preparing changes in HE, influenced the definition of public resource use within the Law on Public Finance. The interviewees suggested several reasons for this. Firstly, the academics leading the

policymaking process in the early 1990s still considered the state to be responsible for funding. For them, the problem was the amount of funding rather than the limitations over its use (Romanian interview no. 13). Secondly, MoE representatives were satisfied with the strict regulation of public funding use, as defined by the MoF. This is well expressed by one of them:

We did not intend to do a very liberal law [1995 Law]...if the state is paying for the general educational system, which is provided in the constitution that the state is supporting. The state has the right to involve into the system, to see how the money of the people who are paying taxes to the state are used (Romanian interview no. 13, p. 12) [emphasis added]

Thirdly, at the time of the preparation of the 1995 Law there was not yet a developed capacity to design a different funding system. Hence, the Law on Public Finances continued to regulate the use of public funding by the universities. The perception of funding not being a key issue for academics, but rather an issue to be solved later by the MoE, had the effect of reinforcing the existing position of the MoF as the author of change in the area of public funding.

Some changes regarding public immovable property were made in the 1995 Law. This Law codified that the universities are administrators of the property they are using. The aim of this change was to ensure that the buildings occupied by the universities would be used by them, and not claimed under restitution⁴⁰ by another organization (Romanian interviews no. 13, 32 and 33). It was also supposed to ensure that the state couldn't at any point take away the immovable property used by universities (Romanian interview no. 49). However, the universities did not become the owners of the property. Several interviewees noted that it was quite clear that nobody wanted universities to be able to sell their property (for example Romanian interview no. 33).

⁴⁰ The restitution was a process by which the state returned property confiscated during communism to its original owners (Dobre, Bogdan, and Ionita 2008).

It is important to point out that, similarly to funding use, there were no advocates for transferring immovable public property into the universities' full ownership. Not even the rectors, who were quite powerful at that time, asked for more rights over the public immovable property they were administering (Romanian interview no. 33).

Removal of external stakeholders from university management

As already mentioned, during communism universities were under the direct control of the Communist party (Romanian interviews no. 37 and no. 12). This meant that external bodies managed universities. One of the key aims of the post-1989 changes was to introduce university autonomy from state control, and from the political parties (Romanian interviews no. 13 and 33). This change was introduced in practice by academics at university level immediately following the regime change. The 1995 Law later codified it.

As a result of this change the universities became self-governed, and the state maintained only a limited say in the design and implementation of their management structures. The 1995 Law did not specifically regulate universities' election procedures and the division of powers between different management bodies. This was left up to the universities (Romanian interview no. 12), as illustrated by the following quotation from a rector from the early 1990s: "We approached autonomy, first of all, as autonomy of organizing yourself, in organizational sense. The university has the right to establish the rules for selecting the rector, deans, heads of chairs [cathedrae]." (Romanian interview no. 9, p. 3).

4.3.1.3 Interpretation of the findings through the analytical framework

The changes that took place in the early 1990s in Romania are an example of what Collier and Collier (1991) call critical juncture. The new HE governance institution designed represented a sharp departure from the institution in place up until December 1989. In accordance with Hood's (1998) expectation, the post-1989 HE governance institution was built in reaction to

the communist one. Simultaneously, it reflected what March and Olsen (2004) would anticipate; the shape of change reflected what authors of change perceived to be appropriate.

The main problem that the post 1989 HE governance institution addressed was the control of universities by political parties and the state. This was attempted through the introduction of self-governing universities, with the state now having only a limited say in defining universities' management and organizational structures, and in selecting leaders at all levels. It became appropriate that universities should be detached not only from the state but also from wider society. Furthermore, the academics propagating the changes deemed appropriate a university management model in which there was self-governance at all levels of the university.

Another important characteristic of the early transition HE governance institution was that of actors who would become the legitimate policy designers deciding about the form of the adopted HE policies. It was the academics, especially the rectors, who had influence over the final form of the policies on university internal management and organization, and external stakeholder involvement in university management.

Academics did not influence the new regulations on public fund and property use. This was because they perceived these areas as being the state's responsibility. The state, represented by the MoF in the case of funding, and by the MoE reform team in the case of property, considered it appropriate that the state should be the owner and manager of public resources. The MoE also promoted regulations that stipulated that nobody could take away university-administered property.

The final point is that the 1995 Law and the 1997 Teachers' Statute represent what Thelen (1999) calls functional positive feedback mechanisms. These two laws reinforced the logic of the system introduced by the academics after 1989, by codifying university self-

governance, and its internal decentralization. In addition, during the preparation of the 1995 Law, the role of academics, especially rectors, as legitimate policy designers who influence the adopted policies on universities' internal management and organization, and on the involvement of external stakeholders into university management, was reinforced.

4.3.2 Modernization reforms in Romania

In Romania the 'modernization agenda' was introduced in two waves. The first was triggered by Amendment 151/1999 to the 1995 Law (1999 Amendment), and the ministerial orders on liberalization of public funding use and introduction of external stakeholders into university management. The Law on National Education 1/2011 (2011 Law) triggered the second wave.

The changes at the end of the 1990s (Minister's Order no. 3132, Ministerial order introducing advisory bodies, 1999 Amendment) had the following goals: stimulate universities to be entrepreneurial in raising their own resources (mainly the introduction of tuition fees and advisory boards with external stakeholders); administer money more efficiently (block grant⁴¹); improve the management of universities based on the reforms in funding; introduce transparency in funding (introduction of formula based funding) (Romanian interviews no. 33, 9, 12 and 21). According to the interviewees there were two reasons for this shift of approach from the early transition, when the state was responsible for funding, to a new one in which universities are expected to generate part of their income. Firstly, there was not enough public funding available for universities, so it was important to motivate them to attract resources (tuition fees, possibility to keep budget surpluses at the end of the fiscal year). Secondly, there was a need to increase universities' financial autonomy through resource generation. In this period there was no change in the regulation of university

⁴¹ The block grant was first introduced through Ministerial Order 3132 from 1998 and was then codified by the 1999 Amendment (Marga 1998; Romanian Parliament 1999).

management and internal organization, which remained decentralized with a bottom-up election system, and universities remained self-governed.

The key figure for the changes at the end of the 1990s was education minister Marga, who brought with him to the MoE a team coming mainly from universities. The team designed the 1999 Amendment and the ministerial orders from the end of the 1990s. The adoption of the amendment did not generate substantial opposition, and it was passed in the form proposed by the MoE team.

In regard to international influence during the preparation of the 1999 Amendment there were two big projects from supranational agencies; World Bank loan 4096-RO: Reform of Higher Education and Research Project (World Bank loan) and the EU sponsored PHARE project Romanian Higher Education Reform R09601 Universitas 2000 (PHARE project). The WB loan period was 1996 – 2002 (World Bank 2003a). The PHARE project took place between 1996–2001 (PHARE 2001). Neither of these projects provided ideas for the changes studied in the dissertation. Yet they were both used to legitimize the 1999 Amendment, as the quotation from an interviewed journalist illustrates:

...they [the Minister and his team] always said that. When they had some new idea they always said look to the World Bank, which said this and it's the PHARE program which allows us to develop this activity, this faculty or this program. They have always said that. (Romanian interview no. 28, p. 3).

The PHARE project was used to persuade the rectors to accept changes reflecting foreign trends through organizing study trips for them. As interviewee number 21 notes:

Most of the rectors, I would say almost all of them, participated in study visits in one of these countries. So we wanted them to see what happens in UK, in France, in Germany and so on, and then coming back and say: OK, would you like to change it? Would you like... you have seen already. (p. 13).

As will be discussed later, for the introduction of the block grant the reform authors used the British model.

The emphasis in the 2011 Law was on the need to improve quality. To achieve this, management and governance were key areas in need of change. From the point of view of management, changes concerned two main themes that underlined the reform process. Firstly, the practice of (family) clans running the universities was to be stopped. Secondly, a managerial top-down style of governing universities was to be introduced. There was no major change regarding public fund and immovable property use. Changes in funding were mainly supposed to support the quality of HE.

According to the majority of interviewees, during the early 2000s experts and the wider public increasingly requested education reform. There were several attempts to deliver a new law on education. Education minister Adomnitei submitted a first proposal to parliament in 2008. This proposal was never debated as it was proposed at the end of his term (Romanian interview no. 19). Education minister Andronescu (in office 2008 – 2009) prepared the second law proposal. In December 2009 her (Social Democrat) party left the government and education minister Funeriu took office. Funeriu was involved in the preparation of the third proposal. The Law finally adopted in 2011 was a merger of Funeriu's and Andronescu's proposals incorporating ideas from Adomnitei's draft (Romanian interview no.11 and 33).

The draft was prepared in a presidential committee set up in January 2007 by president Basescu. The committee first prepared an analysis of the situation (July 2007); then a National Pact for Education, which was about the commitment to education reform. All parliamentary parties signed the Pact (March 2008). This was followed by a strategy (June 2008) and the law proposal (Presidential Commission 2008; Romanian interview no. 8). The members of the presidential committee came mostly from universities and research institutes. During the time of reform preparation they were not part of the universities' leadership, or in their words "the academic oligarchy". The commission was led by Mircea Miclea, from Babes Bolyai University in Cluj. Neither Miclea nor other key members of the presidential commission

(with the exception of Funeriu) held government positions after the 2008 general elections. As one of these actors commented: "...we don't want to be identified with any party whatsoever. That's the reason we did not want to be members of government" (Romanian interview no. 33, p. 18). This quotation shows that the key authors of the reform did not consider it appropriate to be part of the government.

The Law proposal was strongly opposed by the rectors. Their National Conference rejected it in a public statement (Romanian National Council Rectors 2010). In addition, rectors of five key Romanian universities (University of Bucharest, Alexandru Ioan Cuza University Iasi, West University Timisoara, Babes-Bolyai University Cluj-Napoca, and ASE Bucharest) addressed a letter to the MPs and leaders of political parties asking to preserve the existing level of university autonomy, which in their view the new proposal was endangering (Universitaria 2010). Both documents protested against; the fact that rectors would not be elected by peers but appointed and could be removed by the MoE without appeal, the introduction of regulations on the internal structure and organization of universities, and limiting the age of professors to 65 (Romanian National Council Rectors 2010; Universitaria 2010).

The law proposals put forward by the presidential commission faced two hurdles in Parliament: the obstruction and delaying tactics of the opposition Social Democratic Party in the chamber of deputies; and the fragile majority in the senate. This was particularly worrisome because the proposal was likely to be debated over a long period of time and subjected to numerous recommended changes, leading basically to no passage at all (Romanian interviews no. 10 and 28). In the face of these factors, the president asked the prime minister to ask for a vote of confidence: the parliament could either reject or approve the law, and keep or dismiss the government, but it could not make any changes to the law. This however, did not mean that the government proposal went unchanged. A number of

academics who opposed the legislation and were influential in the strongest party in the governing coalition forced through a number of changes. This is well summarized by interviewee 20:

And maybe because of suggestions and comments of **many people from the academic field**, some of them being part of the party, involved in the government. Some of them did not agree with the proposal of the presidential commission. They tried to find way to promote the main ideas of the commission but also to allow the system to survive, I mean to not be completely restructured...That was strange, I mean that was the proposal of the presidential commission about the model promoted by the government was a little bit different. It had the same architecture but **incorporated a lot of suggestions from the old model**. (Romanian interview no. 20, p. 7) [emphasis added]

The final version of the law was different from what the original authors had wished for. The influence of the academics on government resulted in the law continuing such policies as rector election, or the existence of faculties organized around specializations instead of there being a multidisciplinary organization of universities.

There were no specific international reports backing the 2011 Law. Developments in the European and global arena had more of a trigger and validation effect on this more substantial reform. In regard to European policies, the presidential commission report stated for example that the reform was necessary because the education system in Romania was not in line with the minimum requirements of European society and economy (Presidential Commission 2007). It further claimed that without reform Romanian education might distance itself increasingly from the EU. The use of European policies to validate the reform attempts is well demonstrated by Romanian interviewee number 10: “[Lisbon strategy⁴²]...was one of the main arguments that Funeriu [education minister] had for

⁴² Lisbon strategy was a European level initiative aiming at increasing the competitiveness of the EU through building a knowledge-based economy capable of sustainable economic growth, with more jobs and greater social cohesion, http://www.consilium.europa.eu/en/uedocs/cms_data/docs/pressdata/en/ec/00100-r1.en0.htm (accessed 13 August 2015).

everything that he changed in the law. He said this is because we try to build a European modern education system” (p. 8).

Another trigger and validation tool was the Shanghai Jiao Tong University global ranking.⁴³ As one of the interviewees from academia noted, this ranking was as sacred for Funeriu as Mecca was for the Muslims (Romanian interview no. 19). One aim of the Law’s authors was to have at least three Romanian universities in the top 500 in this ranking, as a result of the reform. To achieve this goal they suggested introducing management structures used by the most successful universities in the world (Presidential Commission 2008). According to the presidential commission, a vast majority of the universities represented in the Shanghai ranking had corporate-like professional management, and such management systems should be introduced in Romania too. Models from individual countries inspired concrete policy areas studied in this dissertation, and this is discussed in detail further.

4.3.2.1 Analysis of ‘modernization agenda’ use in Romania

In this section I analyze the translation of the ‘modernization agenda’ in three policy areas: external stakeholders in university management, centralization of internal management and organization, and liberalization of public fund and immovable property use, referring to both reform waves. I start with the external stakeholders, as this issue became one of the main topics of the 2011 Law influencing other areas of the reform as well. Overall, the 2011 Law was a more comprehensive attempt to introduce the ‘modernization agenda’ than the 1999 amendment.

4.3.2.1.1 Introduction of external stakeholders in university management

The introduction of external stakeholders took place in two ways. The first was through an advisory body with external stakeholders, initially through a ministerial order at the end of the 1990s, and then enshrined in the 2011 Law. The second was through defining a new body

⁴³ <http://www.shanghairanking.com/> (accessed 13 August 2015).

(the selection and recruitment committee) that should select the rector with the participation of people from outside of the university introduced by the 2011 Law.

4.3.2.1.1.1 Advisory body with external stakeholders in 1998 and 2011

One reason for introducing the advisory body in 1998 was, according to one of the authors of change, to gain extra budgetary resources from external stakeholders through involving them in the life of universities. Another aim was to connect the university with stakeholders from the university's environment. For example, if the university was situated in a multi-ethnic and multi-religion area, then it should communicate with representatives of different groups of people living in the university's surroundings (Romanian interview no. 9). Similarly, some universities wanted to have a connection with the outside world including the business sector and other universities (Romanian interview no. 3). Other motivations included helping to align education with labor market needs, to promote the university externally, and to attract new resources (Romanian interview no. 8). This body was not supposed to provide external stakeholders with managerial powers. The 2011 Law codified this advisory body with similar aims as at the end of the 1990s. What was new in the 2000s was that it became key for the authors of change that universities become accountable to the outside world. The advisory body represented one tool to achieve this (Romanian interviews no. 8 and 33).

Description of change and of the main actors

In 1998 education minister Marga introduced the advisory body with external stakeholders through ministerial order. Individual universities were supposed to define the competencies of this body (Romanian interview no. 9). It was their decision whether to have such a body or not. At the end of the 1990s it was not considered appropriate to make this body

compulsory. The minister, also a long-serving rector,⁴⁴ shared the perception of the academics on this matter (Romanian interview no. 9). Academics believed that making this body compulsory would breach autonomy, and it could be abused by the state for political influence (Romanian interviews no. 21). Since the definition of the advisory body respected the views of the academics, there was no opposition to it and it was adopted as proposed.

The situation was different in the 2000s because the drafters of the 2011 Law wanted to introduce a compulsory advisory body with a wider role. It should have responsibility for strategic management of the university and rector selection (Romanian interviews no. 8, 16 and 33). In the end the 2011 Law codified a similar body to that introduced in 1998. Rather than requiring the introduction of an advisory body, the final 2011 Law stated that if a university decides to have such a body then it should include people from business, culture and practice, as well as from other academic organizations. It did not provide any further regulation of this body and its functions.

There was strong opposition and not very well organized support for the stronger advisory body. The opposition came from academics who argued that imposing on universities such a powerful advisory body would be an intrusion on autonomy (Romanian interviews no. 8, 16 and 33). These academics were powerful in the governing parties and were able to influence the final version of the law. Secondly, not even all the members of the reform team were convinced about the appropriateness of such a body in Romania. This is well illustrated by a quotation from a member of the presidential commission:

So that's the problem: **the people in the social-economical environment**, in my view...of course you could find really clever and good people, they are just a few. So **the level of the system is not strong enough to press and to improve the quality in the university...** And **truly speaking some of them do not understand**, in my view

⁴⁴ For almost 20 years he was rector or president of the academic council of Babes Bolyai University (http://www.mae.ro/sites/default/files/file/userfiles/file/pdf/MAE/cv_andrei_marga_engleza.pdf) (Accessed 16 August 2015).

especially in Romania, **the function of the university** because (laughter) I do not have to prepare people for what is today on the market. (Romanian interview no. 20, p. 5) [emphasis added].

What this quotation shows is that some of the authors of the Law did not trust external stakeholders to be able to manage the university well. Thirdly, the business sector itself did not demand to be part of university management, as interviewee number 33, who was involved in the law preparation, observes: “**we wanted them** to participate in the management of the universities and **some of them said that they find it boring with these academics**” (Romanian interview no. 33, p. 23) [emphasis added].

Foreign models for introducing external stakeholders

In 1998 the attempt to introduce the advisory body was mainly stimulated by the need for more funding for universities. In line with the overall philosophy of the law, universities should raise extra resources. One way to do it was through closer ties with business representatives through their involvement in advisory boards (Romanian interview no. 9). In 1998 there was no international or foreign inspiration for introducing advisory bodies with external stakeholders, and the motivation was based on the local context of a lack of resources.

Even though the result in the 2011 Law was quite similar to 1998, on this occasion foreign models were considered. The Law authors interviewed mentioned the US and UK systems as inspirations for the advisory structure. In the UK and US such bodies take the form of university boards with external stakeholders (Fielden 2008). A closer look at the university boards in the two model countries and in Romania reveals several similarities, as well as substantial differences.

The similarity of the Romanian advisory body and the UK board is in the idea that these bodies should help increase the prestige of the university. In Romania this was mainly

to be ensured by having business representatives in this body who would then lobby for the university in the media and other organizations (Romanian interview no. 8). A second similarity is with the US. In the US fund-raising and providing gifts, as well as liaising with external agencies, is part of the work of the board members.⁴⁵ This is similar to what the authors of the 2011 Law in Romania also wanted in regard to advisory bodies.

Besides these similarities, there were major differences between the Romanian advisory bodies and the boards in the UK and in the US. Firstly, in the UK and US university boards have a broader scope of functions, including defining overall strategy and appointing the university's head (vice-chancellor in UK, the President in US) (Fielden 2008). The functions of the advisory body in Romania comprise neither of these. Secondly, in the UK boards are self-perpetuating and have decisional prerogatives, and they are not in an advisory position, as is the case in Romania (Fielden 2008; Powell 2013). In the US it is usually the governor who nominates members of public university boards (StateUniversity.com⁴⁶). The membership of advisory bodies in Romania depends on university charters (2011 Law).

Factors influencing the limited involvement of external stakeholders

The appropriate rules regarding the role of external stakeholders introduced in the early 1990s did not lose legitimacy by 1998. According to these rules universities were to be self-governed and the state should not influence their management. Hence the advisory body with external stakeholders could not be prescribed by the state. Some of these rules that were questioned were about what was appropriate in regard to university funding. The new generation of reformers started to question the legitimacy of the rules in place according to which the state is responsible for funding. The reformers from the end of the 1990s had, in line with Oliver's (1992) anticipation, different backgrounds and cultural expectations from

⁴⁵ <http://agb.org/node/588> (accessed 14 November 2012)

⁴⁶ Accessed 14 November 2012.

the MoF representatives who had defined the rules almost a decade earlier. They came from universities and had the experience of low-level funding, which they felt needed to be addressed through enhancing possibilities for universities to acquire extra-budgetary resources. One way to do so was through creating more ties between universities and external stakeholders through advisory bodies. Yet the behavior of the proponents of the advisory body at the end of the 1990s was still structured by the self-governance rules of university management. They defined the advisory body in a way that would not go against these rules, while reflecting the change in the appropriate funding rules according to which the university is more responsible for its funds. In Thelen's words (1999), the introduction of the advisory body in 1998 provided a positive functional feedback mechanism, meaning a reinforcing of the logic of the system in place (universities run by academics, and free to decide whether and in what way they want to cooperate with external stakeholders).

In 2011 the situation was different from the end of the 1990s. For the reform authors the rules structuring the role of external stakeholders lost legitimacy. This was mainly caused by a shift of generations. The 2011 Law authors were not attached to the definition of appropriate rules under which the university should be self-managed. This was a different attitude from that of minister Marga, who led the changes at the end of the 1990s and participated in the early transition reforms, while also being a rector for most of the time after 1989. New rules of appropriateness shaped the behavior of the new generation of reformers. The new rules stipulated that the university should be accountable to its environment. The reform authors from the 2000s became exposed to these new rules by studying models in other countries, mainly the US and UK. This is what DiMaggio and Powell (1991) call on-the-job learning. In the view of the 2011 Law authors, the self-governed universities in Romania were not responsive to their environment. They perceived the appropriate rules of

non-involvement of external stakeholders in university management as illegitimate. Thus, new rules were needed.

This led to the proposal of a compulsory body with a broader managerial role, in line with the UK and US models. Yet, as discussed above, this proposal was not successful and the adopted version of the advisory body is not very different from the one introduced earlier, at the end of the 1990s. There are three reasons for this limited policy translation. Firstly, the leaders of the reform leading to the 2011 Law did not see it as appropriate to take part in the law adoption process. Hence they had to rely on other people in the government and parliament who were, in reality, open to suggestions from academics fighting for the preservation of the self-governing rules of university management.

The second reason was interlinked with the first. Academics, and especially university rectors, could influence decision-makers in governing parties, because they were perceived as legitimate policy designers influencing the final form of regulation of the role of external stakeholders. This legitimacy was path-dependent from the early 1990s, when academics and rectors became legitimate policy designers in this area. In addition, the behavior of the academics was structured by path-dependent appropriate rules in regard to the role of the external stakeholders in university management. According to these rules the universities should be self-governed and it is not appropriate that the state regulates the roles of external stakeholders in this area.

Thirdly, for the 2011 Law authors the advisory body was not helpful in solving the main problem that they wanted to address: universities being run by clans. This problem was better tackled by another policy tool that they proposed: a committee with external stakeholders selecting the university rector. This policy is discussed in the next section.

4.3.2.1.1.2 Involvement of external stakeholders in rector selection in the 2011 Law

The second way of involving external stakeholders was through the introduction of a selection and recruitment committee appointing the rector. The committee had to include members from outside of the university. The key aim of this change was to dismantle the academic clans leading universities (Romanian interview no. 9). The clan problem became a key issue to be solved by the 2011 Law. Romanian interviewee number 28 captures well the perception of this situation by the 2011 Law authors: “The mafia structures and the [education] minister was saying the same thing [as the president] – we have to destroy the mafia structures.” (p. 9). The quotation shows that dismantling the clans was a priority for the top-level politicians in Romania (the education minister and the president).

One of the reasons clans developed in Romania was, according to the reformers in the presidential commission, the bottom-up election mechanism introduced in the early 1990s, which allowed a small group of people to rule the university (Romanian interview no. 8). The clans were further reinforced by the absence of a limit for the number of terms the rector could serve. As interviewee number 47 puts it:

It’s a kind of monarchy, e.g. the medical school in Timisoara there is a rector from 1991. He remained in power all the time. I don't say that he is a conservative but too long, almost 20 years being the rector. At some universities there are vice-rectors for 17 – 18 years. The same managerial team remaining in power for too long time. (p. 10)

These clans also involved family members. One of the interviewees (no. 19) noted:

The number of university families, you know, how many families there were in each university, hundreds of them, the same name from top to bottom: rector, vice-rectors, dean, head of department, student, even the students with the same name. And they could even decide the fate of their relative, you know, promote or not, decide their salary. (p. 21).

The reformers in the interviews revealed that they believed that under these conditions the universities could not be well managed and therefore their quality was low.

Description of change and the role of actors

The reformers decided to tackle the issue of clans running universities through several measures. First, rector selection shifted from the internal, bottom-up model to top-down appointment with the participation of academics from the outside. This was facilitated by introducing a selection and recruitment commission appointed by the university senate. Half of the members of the committee were to be from within the university and half from outside, including from abroad. At least one student or an alumnus had to be among the members of the committee. The committee was to select the rector from at least two candidates proposed by the senate. The candidates were identified in open competition. The senate also had to approve the methodology. In short, the selection of the rector was under the close control of the senate.

As Romanian interviewee number 2 noted, the introduction of the competition for the rector caused a “national war in Romania” (p. 9), because it was against tradition. Another interviewee recalled that the possibility to appoint the rector was viewed by the opponents of this measure as “Untenable, untenable, is like killing university democracy” (Romanian interview no. 33, p. 20).

The academics, mainly represented by the Rectors’ Conference, but also by a higher education trade union (Alma Mater), were the main opponents (Romanian interviews no. 19 and 25). They used their influence on political parties to fight the change. As illustrated by the quotations from some of the 2011 Law authors, these academics influenced opposition parties and, more importantly, also the main governing coalition party (PDL):

I mean the government was pressed not only by other parties but also by people from the academic field, which had another view on the change... **A lot of professors are members of the party.** They are members in the government, they are members in the senate, they are members in the parliament, in the commission of education and higher education. So that is the way you could change....**the main channel was represented by professors from government and parliament.** (Romanian interview no. 20, p. 12) [emphasis added].

Q: ...it seems to me that, whether there was also opposition inside of the coalition? So it seems to me that not only you had to fight with the opposition but that idea was not really...

A: Absolutely, it was inside. **Even harder fight, I would say.**

Q: So even in the government there were...and I also heard that within opposition not everybody was opposition.

A: Absolutely.

Q: So there was a diversification of the voices even in the opposition and not everybody thought that this is not...

A: ...**So even in the opposition it was divided – people who supported it perhaps even much more than people in the coalition.** (Romanian interview no. 8, p. 21) [emphasis added].

These quotations show that the change to rector selection was not about the struggle between opposition and coalition parties, but primarily about that between the academic proponents of the change and other academics that happened to be influential in the governing political parties.

One of the opponents' arguments was that the rector's appointment by external stakeholders would be an intrusion on university autonomy (Romanian interview no. 8). It should be up to the university, they claimed, to decide whether it wants to be connected with external stakeholders or not (Romanian interview no. 3). In the words of Romanian interviewee number 30 representing the opposing voice to this policy: "Not good, because the autonomy of the university. It must decide what is the system applicable to the election of the university. It is autonomy of the university to decide." (p. 1). Another concern was about the allegedly undemocratic procedure, which would result in people ruled by the rector not having the possibility to influence who their leader will be (Romanian interview no. 20). Thirdly, the selected person could come from outside the university, and would therefore not understand its problems. In the words of Romanian interviewee number 25: "We didn't agree with that. **We prefer** to choose our **rector** inside from, to be one who is working in the university, **not coming from outside of my university to manage our problems.**" (p. 8) [emphasis added].

Due to strong opposition, the 2011 Law authors had to provide an alternative procedure. The alternative was general elections of the rector by all permanent teachers and researchers, and by the student representatives in the university and faculty senates. Universities could choose in a referendum which selection procedure to apply; either appointment of the rector by the selection committee or by direct election (Romanian Parliament 2011). The Rectors' Conference as well as the trade unions supported direct elections (Romanian interviews no. 14 and 25). After the 2011 Law entered into force the vast majority of public universities chose to elect the rector by direct vote (Romanian interview no. 20).

The change to rector selection was also linked to a desire to decrease the power of the clans, reflected in further policy measures. Deans became appointed by the rector from at least two candidates proposed by the faculty senate, based on competition. The 2011 Law abolished elections from lower level representative bodies to higher level ones; from department and cathedra to faculty senate, and from faculty senate to university senate. This was replaced by direct elections for members of faculty and university senates. Thus, the same people were no longer participating at each level of management. The 2011 Law limited the number of mandates of the rector to two in total; it limited the age limit for academics employed at the university to 65; and made it easier for younger academics to get important academic roles, such as PhD supervision without being a professor (Romanian Parliament 2011).

Foreign models for introducing external stakeholders into rector selection

The reformers used several models for the change to rector appointment. They mentioned most often the Austrian, Danish, US and British models. According to one of the 2011 Law authors, the reason to choose these countries was that they had managerial models in which

the rector is able to take difficult but necessary decisions, because they do not have to be afraid of not being re-elected by the colleagues that will be affected by these decisions (Romanian interview no. 8). Reformers also claimed that all the best performing universities in the world use managerial models where top management is recruited not elected (Presidential Commission 2007). The following table summarizes the main characteristics of the foreign models, and the way the 2011 Law introduced the appointment of the rector in Romania.

Table 4: Foreign and Romanian models of boards selecting rector

	Romania	Austria	England⁴⁷	US public universities⁴⁸	Denmark
Who appoints the head of university	Selection and recruitment commission	The board	The board	The board	The board
Process of proposing candidate for the head of university	Senate creates selection commission; based on competition senate proposes at least 2 candidates to selection commission	Search committee composed of the chair of the board and of the senate prepares shortlist of 3 candidates resulting from competition; sends it to senate (proposal is not binding), which proposes 3 candidates to the board	Board appoints appointment committee led by chair of the board and the committee proposes a candidate to the board.	The board appoints search committee that proposes the candidate.	It is up to the university board whether there will be some recruitment committee which will propose the candidate for rector.
Membership of board	50 % from university and 50 % from outside but only academics.	Only external members.	Majority external, including non-academic members.	Majority external, including non-academic members.	Majority external, including non-academic members.
Nomination of board members	By the senate.	2, 3, or 4 by senate and 2, 3, or 4 by Federal Government based on education federal minister and 1 by agreement of the two groups of board members.	Self-perpetuating.	By the state governor.	Majority of the members of the board are recruited from outside, and the rest is elected by the academic staff.

Sources: Author's compilation based on Romanian Parliament 2011; Federal Ministry of Education, Science and Culture of Austria 2009; Danish Act on Universities 2003; Powell 2013; Bulette 2013a; Bulette 2013b

The table above shows that the foreign models were selectively used. The Romanian 2011 Law contained similarities but also differences as compared with the laws of the

⁴⁷ In the table the data are mainly on the universities established after 1992 in England, valid during preparation of the 2011 Law. There are different types of board in England with different roles, but they have some general characteristics in common, which are described in the table.

⁴⁸ In the US there is considerable variety among public universities, but there are certain general patterns that can be identified, and they are summarized in the table.

countries 2011 Law authors identified as models. The key similarity was that in all four countries the board appointed the head of the university. However, in Romania, unlike in any of the four model countries, universities had the option to choose not to appoint the rector but to have him elected by internal vote.

When selecting the rector by appointment, the process devised by the 2011 Law was closest to the Austrian one, as in both countries the academic senate was involved in rector selection. However, in Romania the senate had more power than in Austria, because it made the pre-selection, and hence had the role of gatekeeper for who would be considered by the search commission. In Austria this was the role of the search committee (Federal Ministry of Education, Science and Culture of Austria 2009; Romanian Parliament 2011). In the other three countries mentioned by interviewees, the selection of the rector did not include the senate, and the board appointed the rector.

In terms of membership, the boards included members from outside the university, in all four countries, as in Romania. In the US, UK and Denmark the board contained or could contain (in US) people from the university, just as in Romania. In the US, UK and Denmark the members from outside the university formed the majority, and also included people from the non-academic environment, while in Romania members from outside the university formed only half of the search commission, and the commission included only academics and no other type of external stakeholder (Romanian Parliament 2011).

In regard to nomination of board members, the Romanian model was closest to the Austrian one, where the university senate was involved in nominating almost half of the members. In Romania the senate chose all members, and hence it had much greater control over the selection committee than in Austria (Federal Ministry of Education, Science and

Culture of Austria 2009; Romanian Parliament 2011). In the other model countries the senate was not involved.

Factors influencing the change to rector selection

The 2011 Law brought about changes regarding the involvement of external stakeholders. These were to some extent inspired by foreign models. The first was the already discussed codification of the advisory body into the 2011 Law. The second was the possibility to appoint the rector with the participation of outsiders. As is apparent from this section the role of participants from outside the university increased in university management due to changes to rector selection. Yet this was more limited than the 2011 Law authors intended and the translation of the foreign models was only partial. The reasons for the limited change were rooted in the path-dependency of legitimate policy designers (the rectors) whose behavior remained structured by a path-dependent university management model (self-governance).

The appropriate rules structuring the selection of university leadership lost legitimacy for the 2011 Law authors. The first explanation is generational change. At the end of the 1990s, it was minister Marga who led the changes in HE and, as already mentioned, was closely linked to the HE governance institution introduced during early transition. In contrast, the 2011 Law preparation was led by people not connected with the designing of the early transition governance institution. During designing the 2011 Law these people were not part of the university management established on the basis of the early transition HE governance institution.

The importance of generational change in the area of rector selection is demonstrated by the fact that the existence of academic clans was not a new phenomenon, and some experts such as Miroiu (1998) pointed it out as soon as the end of the 1990s. Yet only following

generational change among people leading HE reforms was this identified as a problem. This is in line with Hood (1998), who notes that the problem does not exist unless it is interpreted as such.

Generational change allowed the shift in the perception of the clans, which is in accordance with Oliver's (1992) expectation that generational change means people with different backgrounds and cultural expectations. It eventually erodes institutionalized norms and activities, because a new generation with different views on what appropriate rules are may start to question the institution in place and, as Offe (1996) adds, it may even generate and enact a new institution, or some of the rules forming it.

As discussed above, the new generation defining the 2011 Law identified the clan issue as stemming from the election system introduced after 1989 (peers selected the rector bottom-up). This system originally aimed to ensure democracy in universities, meaning the possibility for all university members to select their leader (Romanian interview no. 20). Yet the system created the opposite effect when the rector was selected by a limited group of people, facilitating academic oligarchy rule. In the words of Hood (1998), the clans were a reverse consequence of the bottom-up election process. The reverse consequences then further decreased the legitimacy of the university self-governance model in place.

Since the legitimacy of the rector selection model had decreased due to the factors defined above, the 2011 Law authors proposed to change this model. The change was inspired not by international recommendations but by foreign national models reflecting the 'modernization agenda' (US, England, Denmark, Austria). These models were chosen because they reflected what the 2011 Law authors saw as appropriate; the university should be run by professional management where the rector is able to take difficult but important decisions, as they are independent from people who will be affected by these decisions. Yet

the models were not copied because of factors mainly related to the impact of legacies introduced during the early transition period.

One of the most important factors is that the key aim of the proposed change was to tackle the reverse consequences of self-governed universities stemming from the bottom-up election system. This meant dismantling the clans. The use of foreign models served this purpose, and helped to make the rector more independent from groups within the university. Also, the second option that was introduced, direct general elections, fulfilled this aim. The reason being that it would be hard to manipulate who all the academics will vote for. When the elections were only the bottom-up, the university-level senate, the group of people participating in the elections, was very limited in number and therefore easier to manipulate (Romanian interview no. 8).

Another factor shaping the change was the path-dependency of the rectors as legitimate policy designers influencing the final shape of the law. Members of the government respected the views of the rectors on the new mechanism of rector selection. This was based on the early transition legacy, when the voice of rectors had to be respected while proposing changes to university management and internal organization. Simultaneously, the rectors' behavior remained shaped by the path-dependent appropriate rules of university management in the form of self-governance without external stakeholders. These two factors supported the argument for selecting the rector through the alternative method of direct election.

The rectors' influence over the final form of the law was not only secured by the path-dependency mechanism. It was also supported by the fact that the 2011 Law key architects decided not to be part of the government or parliament. Therefore they could only influence governments' and parliaments' decisions indirectly, as the decision makers took on board

only those ideas that matched their priorities. The rectors thus retained much of the traditional authority in this area of policymaking process.

4.3.2.1.2 Centralization of university management

The centralization of university management and internal organization became part of the reform agenda in Romania only with the 2011 Law. Through to the end of the 1990s, the question of whether power within universities was too decentralized was rarely, if at all, raised, although foreign experts from the PHARE project proposed to empower faculty units (PHARE 2001). These recommendations were ignored because they were associated with external intervention into the legitimate decision-making process about universities internal management and organization.

4.3.2.1.2.1 International recommendations on empowerment of faculties at the end of the 1990s

At the end of the 1990s the HE reform actors from the MoE did not plan changes to university internal management and organization to increase or decrease centralization. The reason was that, according to MoE leadership, this question was solely in the universities' competence. There were also no demands from any actors in Romania for changes in this regard. Thus the model of internal management was to remain as introduced in the early 1990s and reinforced by the Teachers' Statute in 1997. Universities remained internally divided into faculties and their subunits, cathedrae. Another characteristic of this model was self-governance at each level.

Even though the HE authors of change from the end of the 1990s did not plan changes to university internal management and organization, they still received recommendations from the PHARE project RO 9601 (1996 – 2001) in this regard. The French consultants recommended codifying budget responsibility at faculty level. This meant that faculties would be responsible for generating funds for themselves, and would have decision-making

power over their budgets (PHARE 2001). The Romanian reformers refused this idea for several reasons. Firstly, there was too little money to be divided among faculties (Romanian interview no. 37). Secondly, they reasoned that universities were different and they should have the autonomy to decide about decentralization based on their diverse structures (Romanian interview no. 9). Thirdly, they believed the decentralization of funding could result in the abolition of less popular faculties that could raise fewer resources from the fees, even though the programs they provided were important for the economy (Romanian interview no. 3). By refusing this proposal, Romanian reformers avoided possible internal division through creating further formal borders with universities by the law.

Interpretation of the rejection of international recommendations

The main reason for not taking on board the PHARE experts' recommendation was that the behavior of all actors in Romania at the end of the 1990s was still structured by the same appropriate rules for internal management and organization as introduced shortly after 1989. It was only appropriate that universities decide on their own what responsibilities to decentralize to faculties. As these rules were not delegitimized, they were not open to change.

4.3.2.1.2.2 Enhancing universities' internal centralization in the 2011 Law

The situation changed substantially in the early 2000s when centralization of internal management and organization became a centerpiece of HE reform. There were three sets of measures that aimed at increasing university internal cohesion. Firstly, the narrowly specialized cathedrae were to be replaced by more interdisciplinary departments. Secondly, the bottom-up management lines were to be shifted to top-down. Thirdly, a new regulation of internal organization was to be introduced. Several reasons were invoked. Primarily, the authors of the 2011 Law perceived universities to be internally divided. One aim of the 2011 Law was to make universities more integrated. This meant more cooperation between

different parts of the university, contributing to the development of interdisciplinary research and education.

Faculties were relatively strong, and were constantly pushing for more independence, and the Law authors perceived the university to be a divided organization. In Miroiu's (1998) words, the faculties were increasingly autonomous and the universities became federation of faculties. In the view of the Law's authors, faculties, and also the cathedrae, developed into separated power centers within universities, fighting for their interests (Romanian interviews no. 8 and 33). This problem needed to be tackled by legislation. Another problem the Law initiators wanted to deal with was that the uniform system of internal organization of universities divided into faculties, departments and cathedrae did not take into account that universities should diversify according to their missions, and the quality of universities could only increase if they were diversified and specialized based on their missions (Presidential Commission 2007). This was important because improving the quality of HE was another key aim of the Law. Therefore, the drafters tried to abolish the existing definition of university internal organization in the Law (Romanian interview no. 33). This would also help to dismantle the formal borders of individual subunits within universities, as enacted by the 1995 Law and reinforced by the 1997 Teachers' Statute (Romanian Parliament 1995; Romanian Parliament 1997).

Description of change and the role of actors

The first area of change meant to facilitate internal integration was the introduction of a new type of department. The new department replaced the highly discipline-oriented cathedrae. It was supposed to replace faculties as well, because faculties represented, in the view of the 2011 Law authors, power centers inside universities (Romanian interview no. 33). According to the interviewees from universities the department, because of its large scope of activity, had taken over several faculty roles and became the university's most important unit. It

became responsible for research and education, and started to be able to establish post-graduate schools, research centers and laboratories with their own budget. The new department structures gained the possibility to be organized around one or more fields of study (Romanian Parliament 2011). The 2011 Law authors wanted to ensure that the department would comprise several fields through defining in the law the minimum number of people and disciplines within one department. However, this was strongly opposed by academics influential in the coalition, as well as in the opposition political parties, as an intrusion on university autonomy (Romanian interview no. 8). The reformers could not break down this opposition, and this proposal was not passed.

Further changes were proposed regarding internal cohesion and local power centers, related to the selection and accountability of the middle management (dean, faculty senate, department). Based on the 2011 Law, the faculty senate did not elect the dean anymore. The rector appointed the dean based on competition and the proposals of at least two candidates by the faculty senate. In addition, the dean became responsible for applying the decisions of the rector, administrative board⁴⁹ and university senate (Romanian Parliament 2011). Before 2011 the dean was accountable to their electorate, meaning to the faculty senate (Romanian interviews no. 5 and 32).

Unlike the appointment of the rector, the appointment of the dean, and the changes to their responsibilities making them accountable to a higher level, did not meet with strong opposition. Most of the interviewees explained this as being due to the dean losing importance with the 2011 Law, and the department heads becoming the most powerful people within the university (e.g. Romanian interview no. 47). In this regard it is interesting that,

⁴⁹ The rector, vice-rectors, deans, student representative and general administrative director form the administrative board (Romanian Parliament 2011).

unlike other managers (rector and deans), the department head was still elected by department members even after 2011 (Romanian Parliament 2011). This could have contributed to the relatively low resistance to this step. The reason for preserving elections for department heads was, according to one of the main 2011 Law authors, that the department was part of academia, not of management, and people there knew each other, unlike at faculty or university level. They had a stronger motivation to fight together for the prestige of their unit. Hence elections were in the view of this interviewee more appropriate than appointment (Romanian interview no. 8).

Even though the department heads were not selected top-down, the 2011 Law introduced other mechanisms that allowed for their control in order to align the departments with overall university interests. These mechanisms were directly related to the need to improve quality as one of the key reform aims. Simultaneously, they were tied to changes in financing, another important area of change in the 2011 Law. In concrete terms the university had to deliver departmental assessments and classifications every five years, based on the methodology designed by the National Council for Scientific Research and approved by the education minister. The rector could propose to the university senate the reorganization or dissolution of departments that performed poorly in the classification. Simultaneously, the rector was under pressure to control and stimulate an improvement in the quality of the departments, because they were responsible by institutional agreement concluded with the MoE for allocating resources to the highest performing departments. The best performing departments' support was further strengthened by the provision that universities should be financed based on the position of the education programs in the national ranking of programs, and the programs were delivered at department level (Romanian Parliament 2011). All these measures were, according to the 2011 Law authors, supposed to facilitate the control of departments by university top management (Romanian interview no. 2). As a result

departments were forced to follow university strategy, which made the university more cohesive.

Another change in regard to middle management was that, unlike in previous laws, deans and department heads were no longer allowed to be university senate members (Romanian Parliament 1995; Romanian Parliament 1997; Romanian Parliament 2011). According to one of the interviewees from university leadership, this made it easier to make difficult but necessary decisions about faculties or departments in the university senates:

I can have a lot of problems with one department or reorganize it, you think in the senate should everybody accept the idea to change the department if two thirds of the departments are their colleagues, forget about it. Never! So they were really bright to act this way and make the senate a really independent authority to watch in the activity of all the area of the administrative body... (Romanian interview no. 14, p. 10).

Eliminating executives from lower level units of university senates was connected to the introduction of the division of executive and control functions. The executives became part of administrative boards responsible for university operational management, which included the rector, vice-rectors, deans, general administrative director and one student (Romanian Parliament 2011).

What is interesting is that while the 2011 Law authors wanted to enhance internal cohesion, they introduced more formal internal borders than the laws regulating HE before 2011. The 2011 Law, unlike the previous laws, included competency definition for middle management governing bodies (dean, faculty senate, departmental head). It further preserved the faculty representativeness principle in university level management structures introduced by the 1997 Teachers' Statute, and also applied it to the new departments (Romanian Parliament 1997; Romanian Parliament 2011). The tighter definition of university subunits contradicted one of the goals of the changes to internal organization, the diversification of universities. The original idea of the 2011 Law authors was that internal organization would

be decided upon by universities themselves, so that they could adjust it to their respective strategy and mission (Presidential Commission 2008). The MoE was not to look at what is happening inside the university, and should only assess the output (Romanian interview no. 8).

There were several reasons why the liberalization of internal organization did not take place. In fact, it became more regulated, with even more formal borders within the university. Firstly, the academics influential in the main coalition party (PDL) promoted the preservation of the old definition of internal structures in the law, and also of the government's power to approve the setting-up of new faculties. According to one of the 2011 Law authors, the rectors, deans and other academics were against abolishing the internal organization regulation comprising faculties and lower level units. They also pushed for the preservation of the regulation based on which faculty's establishment has to be approved by the government (Romanian interview no. 8). To sum up, they wanted the government to preserve its influence on internal organization. The reason was, according to the 2011 Law authors, that these academics wanted to maintain local power centers within universities (Romanian interview no. 33). The government accepted the proposals by these academics, as this was not an imperative prime minister Boc was ready to fight for (Romanian interview no. 8).

Another reason for greater regulation of internal organization was that the Law authors were not absolutely sure about giving universities total freedom to decide on their internal organization. They were afraid that if they provide universities with too much autonomy, then academics could abuse it by choosing not to introduce efficient structures. This is demonstrated by the reform team's attempt to define in the law more detailed characteristics of the new departments, through regulating the minimum number of people and disciplines for a department (Romanian interview no. 8). Another demonstration of this low level of trust is the fact that the law introduced a possibility for the government to initiate

new programs or faculties in public universities after consultation, but without university senate approval (Romanian Parliament 2011). This should allow the government to satisfy its needs for certain fields. One of the presidential commission members commented on this change in the following way:

In Romania, **because they did not trust the universities**, I mean, they might think something like that: the senate will never approve the project because maybe the senate is under the influence of another party or another, you know, part of the society. And the government will not be able to promote the policy they want. So I think that's...**the idea is a normal one** (laughter). **The way of implementation is normal for the context of Romania. But if you think to the context of university in well-developed country. I do not think this is too normal.** (Romanian interview no. 20, p. 9) [emphasis added].

The diversification of universities was achieved in the end through measures other than the liberalization of internal organization and management. It was brought about through study programs ranking, financing based on ranking, and also by the classification of universities into categories (Romanian Parliament 2011). This approach was already indicated in the Presidential Commission (2007), which stated that diversification and the ensuing concentration of resources would not happen naturally as in the US, and that there was a need for substantial, directed efforts. In the words of the report: “this differentiation and concentration movement, essential for a competitive university system, must be carried out from top to bottom, by government decision.” (p. 24). This time, ensuring university diversification was also in line with dealing with the distrust in academics.

Use of foreign models

The 2011 Law authors used foreign models in respect to all three changes aiming to increase internal coherence, namely the introduction of new interdisciplinary departments, the shift from bottom-up to top-down management, and the liberalization of internal structure that should abolish the internal borders within university. Yet in all three cases they did not copy the models, but used them selectively.

The launching of interdisciplinary departments was inspired by the US model, where the departments were, according to Romanian interviewee number 20, flexible, and covered many programs. The 2011 Law definition of departments organized around one or more fields did not directly ensure interdisciplinarity, although it provided a possibility to do so. The US model was also used as justification for preserving the self-governance principle of department leadership selection (Romanian interview no. 8).

The introduction of top-down management lines was inspired by private sector and foreign models, with the 2011 Law authors mentioning the Austria and Denmark examples of the latter. In both countries, as in Romania after 2011, the dean was appointed top-down. In Denmark the rector hired the dean (Danish Act on Universities 2003). In Austria it was the rectorate⁵⁰ that appointed and dismissed sub-unit heads (Federal Ministry of Education, Science and Culture of Austria 2009). In the Romanian 2011 Law the rector appointed the dean. The Romanian law was closer to the Danish one in terms of having the rector as a single person appointing the dean, while in Austria vice-rectors were also involved. The principle of top-down appointment was common to all three countries. An important difference was that in Romania the faculty senate was involved in the dean's appointment, pre-selecting candidates based on competition. Unlike in the model countries, the rector's choice was more limited and the faculty senate played a gatekeeper role (Romanian Parliament 2011).

Another aspect in which Romania came to resemble Austria and Denmark was in the shift of management lines from bottom-up to top-down. The way in which central administration controlled the lower levels in Romania resembled the Austrian model, where the rectorate concluded target agreements with subunit heads and could establish or discontinue study programs and give opinions on curricula (Federal Ministry of Education,

⁵⁰The rector and the vice-rectors formed the rectorate (Federal Ministry of Education, Science and Culture of Austria 2009).

Science and Culture of Austria 2009). In Romania, the rector, together with the university senate, evaluated the departments and could reorganize them (Romanian Parliament 2011). The Romanian and Austrian approaches shared direct central level control over lower units. Yet in Romania, the rector and the senate did not influence study programs or curricula. In Denmark the link to the departments was less direct, as the rector supervised the dean and the dean in turn supervised the department heads; the rector authorized the prerogatives of deans and department heads (Danish Act on Universities 2003).

Unlike in Romania, in Austria and Denmark the higher-level management bodies appointed lower-level unit managers. In Austria the rectorate appointed heads of all subunits, and in Denmark the dean appointed the department heads (Federal Ministry of Education, Science and Culture of Austria 2009; Danish Act on Universities 2003). In Romania departmental leadership was elected. The motivation was, according to one of the 2011 Law authors, that the department was an operational and not an executive level, and also that in the US departmental leadership was elected (Romanian interview no. 8). Yet even the US uses a mixture of approaches for department head selection. In some cases it is by appointment, in others by election, followed by the dean's endorsement.⁵¹ It is interesting that the 2011 Law authors chose a specific US practice, and had not drawn inspiration in deciding on departmental election from the other two countries they considered for top and middle management models. In reality, in the case of department head appointment, the foreign model was selected to support the existing system of election of leaders by peers.

Regarding internal organization and management structures aimed at developing university diversification, the 2011 Law authors considered two types of foreign model. According to Presidential Commission (2007), diversification was typical of the best

⁵¹ <http://education.stateuniversity.com/pages/1909/Department-Chairperson.html> (accessed November 15th 2012).

performing systems, such as in the US and Canada, the systems to which the performance of the Romanian universities should aspire. However, the 2011 Law authors did not believe that diversification could develop “naturally” as in the US and Canada. The government had to stimulate it, as in Germany, Russia or China (Presidential Commission 2007).

Interpretation of findings through the analytical framework

The appropriate rules structuring internal management and organization introduced shortly after 1989 lost legitimacy in the early 2000s and became open to change. Several factors caused this. The most important was the generational change already discussed. Key 2011 Law authors were not connected to the HE governance institution designed after 1989 and they had, as Oliver (1992) would anticipate, different backgrounds and expectations. As discussed in detail in section 4.3.1 on early transition, prior to 2011 it was important for the authors of change that universities have autonomy in designing their internal organization and management structures, and that the state have no influence in this area (Romanian interview no. 9). These were the appropriate rules for the HE governance institution introduced after 1989.

The new generation which prepared the 2011 Law was also open to new appropriate rules after studying different models as part of their on-the-job learning (DiMaggio and Powell 1991). According to these new rules it was appropriate that university internal organization allow for diversification; that universities be professionally managed top-down; and that they be internally integrated organizations facilitating interdisciplinary research and education. Having a different view on appropriate rules, the Law authors started to question the earlier rules defining internal organization and management introduced after 1989. They identified the power centers at faculty level as a problem, which in their view resulted from the bottom-up self-governance system introduced during the 1990s. The power centers were in fact what Hood (1998) conceptualized as unintended consequences, and as such they also

contributed to the decrease of legitimacy of the appropriate rules of internal organization and management structure introduced during the early transition.

In order to increase the legitimacy of these rules, the 2011 Law authors initiated a number of changes. As discussed in detail in the previous section, the changes were inspired by several foreign models. Yet these models were not copied. In the words of Gornitzka (2006), they were translated. The use of foreign models was influenced by legacies from the HE governance institution introduced during the early transition, and characterized by a self-governance type of management. This is demonstrated by the preservation of the faculty senate's involvement in the dean's appointment, in the university senate's participation in the evaluation and reorganization of programs, and the fact that heads of the new departments were not appointed but elected. These were in fact characteristics of the old self-governance rules of appropriateness introduced after 1989.

Several factors led to the persistence of the early transition legacies. Firstly, there was path-dependency regarding the legitimate policy designers with a final say on the ultimate shape of the university internal organization and management policy. They were academics with close ties within political parties. This is well proven by the preservation of the definition of university internal organization in the law and the impasse on redefining the departments in order to make them broader and more interdisciplinary.

The 2011 Law authors were not formally involved in the legislation adoption process. They had to rely on what members of parliament and government pushed through, which was not always in line with the Law drafters' priorities. For example, the priorities of the government members and the MPs did not include leaving the definition of faculties and further details on university subunits out of the 2011 Law, and including regulation of departments in such a way as to ensure they would be multidisciplinary.

Secondly, the rules of appropriateness structuring the behavior of the 2011 Law authors were also to some extent path-dependent. Thus in some areas they still perceived self-governance as appropriate. This was demonstrated in the area of department leadership, which became the key university subunit. The head remained elected by peers instead of being selected through public competition, as was the case for other managers (rector, dean). Further evidence is provided by the academic senate's involvement in areas that were in the hands of executive bodies in the model countries (senate as gatekeeper of deans' selection, university senate involvement in evaluation and re-organization of departments). Rector selection, as discussed above, was another example of the senate being involved in areas where it was not typical of model countries.

Thirdly, the changes to internal organization and the introduction of more top-down management were shaped as a response to the unintended consequence of the early transition, namely the creation of power centers at faculty level. The need to eliminate power centers was addressed by introducing new departments that dismantled the cathedrae and hollowed out the faculties' powers. In this sense it was less important that the department leadership was not appointed, as in the model countries, but elected by peers (departments designed in this way could still shake the old power centers).

Fourthly, Law authors were also aware of what Hood (1998) conceptualizes as reverse consequence. As has already been discussed in regard to rector selection, a reverse consequence of the bottom-up self-governance introduced during early transition was the development of the clans. The clans were, in the view of the Law authors, a result of the universities' freedom to arrange their own management structures. The 2011 Law authors believed that if the academics would be left with similar freedom in regard to defining university internal organization then they would abuse it. Therefore they did not increase autonomy in regard to university internal organization, but even introduced more regulation

than before (for example specification of the competencies of middle management governing bodies, such as dean, faculty council, and departmental head).

The main purpose of leaving universities to decide on their internal organization was to let them diversify. Since the freedom of academics in defining internal organization could, in the view of reform authors, lead to the reverse consequence, as happened with self-governance, they opted to ensure university diversification through government measures (program ranking, changes to funding of programs, university classification).

The final factor influencing the policy translation was not related to the early transition legacies. Instead, it was about the absence of strong advocates for leaving universities to decide on internal organization and management structures. Indeed, leading academics lobbied against the liberalization of internal structures. The reason was, according to the 2011 Law authors, that the existing structures provided the academics with power within the local power centers.

4.3.2.1.3 Liberalization of public funding and immovable property use

The analysis of the liberalization of public resource use by universities is divided into two parts, because the approaches taken to the usage of funding and of immovable property differ markedly. Regarding the latter, there was almost no change throughout the studied period (1989 – 2011). This was mainly because the authors of change in HE, along with all other actors, perceived as appropriate that the state is the owner and manager of property administered by universities. Regarding public fund use however, universities gained some degree of flexibility and freedom in how to spend their money, due to the system of block grants introduced in the late 1990s. My analysis begins with a discussion of the lack of change in public immovable property use. Then I move on to study developments leading to the liberalization of public funding use at the end of the 1990s and in the early 2000s.

4.3.2.1.3.1 *The lack of liberalization in public immovable property use*

The main reason public property use policies did not change was that all the authors of change in 1995, 1999 and 2011 shared the view that the immovable public property administered by universities should stay under state control. The state should ensure that this property is used for educational aims (Romanian interviews 8 and 33). The following quotation from an interviewee who participated in all changes from the early 1990s to the early 2000s shows the reluctance of the authors of change to give universities the right to sell property:

We tried to have more managerial approach towards this but on the other hand we were trying to secure that universities do not sell their properties...because in the end if they want to sell I think it is normal that they can sell them but **the point is to stop potential abuses**. You know like **the rector comes and says ok, guys, we sell everything and what**...close the university, we don't want to see that. (Romanian interview no. 16) [emphasis added].

In other words, the reformers were afraid that people in charge of universities would abuse the university property if they owned it.

In line with this view most of the interviewees expressed that it was not appropriate for universities to use the property for commercial purposes, even if that would lead to raising extra-budgetary resources. This was “demonstrated” by the case of the University of Agronomic Sciences and Veterinary Medicine in Bucharest, which in 2000, in order to gain more resources, sold part of its land to private developers, who built a shopping mall.⁵² Most of the interviewees, both from the MoE and from academia, saw this as problematic because the land was not used directly for research or education.

The state also controlled the renting out of property, and regulations in this area became stricter at the end of the 1990s. While according to the 1995 Law the MoE only reviewed rental contracts on an annual basis, the 1999 Amendment to the education law required it to design

⁵² <http://www.wall-street.ro/articol/Money/56619/Proiectul-anului-2008-Baneasa-Shopping-City-cel-mai-mare-mall-construit-in-Romania.html> (accessed 15 May 2012).

a methodology for renting and approve any rental contract before being executed. The law also stated that renting should be for educational purposes only. In short, the MoE was controlling more closely the whole process of university property renting. The 2011 Law reverted to the 1995 Law in abolishing the need to ask the MoE for permission to rent out property. People from universities expected this matter to be further defined through lower level regulations (Romanian interview no. 24).

As already mentioned, the authors of change in HE were not eager to liberalize public property use by universities. This lack of interest in the case of the 2011 Law is well demonstrated by the choice of foreign models. The models identified by the reform leaders interviewed were from Austria and Denmark (Romanian interview no. 8). In both countries universities were not owners of the property. In Austria the property was owned by the federal real estate company, and in Denmark by the Danish University Property Agency. Universities rented buildings from these agencies.⁵³ The use of these models illustrates the preference for preserving the existing system in Romania.

Another factor contributing to the lack of change was that there were no strong advocates for liberalization of public immovable property use. According to several interviewees, even the academics did not request more freedom in regard to property use (Romanian interviews no. 16, 33 and 34). In addition, there was one strong supporter for the preservation of state control: the MoF. The MoF was a strong advocate for the early transition rules in this area.

From the above it can be concluded that there were two reasons why it remained appropriate that the state directly controlled immovable property use. The first was that these

⁵³(Federal Ministry of Education, Science and Culture of Austria 2009); <http://en.iu.dk/education-in-denmark/danish-universities/universities-in-denmark/economics-of-university-sector/university-buildings> (accessed November 15th 2012).

appropriate rules, in place from the early 1990s, did not lose legitimacy for any of the actors. It was viewed as appropriate that the state directly decided about the use of the property administered by the universities. The legitimacy of these rules was in fact further reinforced in the 2000s due to the distrust in academics of the 2011 Law authors. This distrust represented the second reason for the lack of liberalization of immovable public property use. This distrust, in turn, was a result of the reverse consequences of the HE governance institution introduced in the early the 1990s, when academics gained freedom in designing and executing university management structures. In the view of the Law authors, this led later down the line to universities being mismanaged by academic clans. The Law authors were afraid that the introduction of more freedom in property use could lead to its abuse by the academics running universities.

4.3.2.1.3.2 Liberalization of public funding use

The block grant, representing liberalization of public fund use, was introduced in Romania in 1998 and not changed substantially since then. The block grant meant in Romania liberalization in some areas, while preserving strict regulation in others. Both at the end of the 1990s and in the early 2000s, the definition of public fund use was influenced by legacies from the early transition, when the HE governance institution was defined.

The main idea behind the changes to university funding at the end of the 1990s was that universities should compete for public as well as private resources, and use them efficiently. The authors of the changes to funding wanted to allow universities to be more entrepreneurial in order to gain more resources, given that there were not enough public funds available (Romanian interviews no. 3 and 49). The introduction of the block grant was supposed to help fulfill the aim of using public funds efficiently. The block grant formed, in their view, only part of the changes to funding. What seemed to be even more important for them was a new allocation mechanism based on a predefined formula. This replaced the old

system of budget allocation that reflected negotiation between the rector and the minister, and/or the legacy of a certain amount of money being allocated to individual universities based on past allocations (Romanian interview no. 17).

As already mentioned, public fund use was not substantially changed in the 2011 Law. The partial changes that were introduced at that time had different motivations from the reform at the end of the 1990s. In 2011, as discussed in detail in the following section, funding was redesigned mainly to stimulate quality improvement, and the issue of efficiency was not dealt with anymore.

Description of changes and relevant actors at the end of the 1990s and in 2011 Law

Education minister Marga and his team designed the block grant, which constituted to some extent a move away from line-budgeting. The block grant was first introduced in the 1998 Minister's Order 3132, and then incorporated into Amendment no. 151/1999 to the Law on education (OECD 2000). Line budgeting meant that the budget had defined destinations for expenditures such as salaries, running costs, investments and the like (Romanian interview no. 21). Law on public finances introduced line budgeting and the rules of public funding use (Romanian Parliament 1991). Switching between different categories (lines) had to be approved by the MoF. The block grant defined seven years later meant that in some areas universities were to be allowed to spend money not according to the fixed categories, but based on their needs and goals.

The block grant introduced in 1998 covered, according to its authors, basic funding, which was about 70% of the budget allocated to universities (Romanian interview no. 33). It was earmarked for salaries, running costs, university development, subsidies for student transportation, and merit and need based stipends (Romanian interview no. 45). The

remaining 30% of the subsidies was provided as complementary funding, covering student accommodation, equipment, investments and general overhaul (Miroiu and Vlasceanu 2012).

Several effects of the block grant led to increased liberty in public funding use for universities. Firstly, universities could decide after 1998 how many teaching and non-teaching staff they wanted to have, and how much money they wanted to invest from the block grant into salaries and how much for running costs. This was important because one of the big problems in Romania was that, before 1998, most of the money allocated to universities was attached to the number of teaching and non-teaching positions, and could only be spent in this area. This led to very low student-teacher ratios, and to a high number of study programs. Through separating the number of employees from the budget allocation the incentive to have excessive numbers of employees and study programs disappeared (Miroiu and Vlasceanu 2012). Hence, public resources could be spent in a more efficient way, which was in line with one of the key objectives of the changes to funding.

Secondly, universities could shift money between salaries and running costs during the fiscal year without the approval of the MoE (Romanian interview no. 23). Thirdly, universities could start making their own proposals for allocation within the budget lines (Romanian interview no. 21). This was done through the introduction of the contract between the university and the MoE (Romanian interview no. 6). What was also perceived as a positive change from the 1999 Amendment was that universities were allowed to keep budget surpluses⁵⁴ at the end of the fiscal year.

However, as already indicated, the overall budget was not provided as one block, and some categories were still preserved. The two biggest distinct categories were the basic and the complementary funding, which both included further sub-categories. The possibility to

⁵⁴ Budget surpluses means money not used within respective fiscal year.

shift the money across the preserved lines within categories and sub-categories during the fiscal year, or even to change the destination of budget surpluses, was limited, as it required MoE approval. For example, surplus from salary allocations could not be used in the following year for canteens or dormitories. It could only be used within the same activity, meaning teaching. Money from running costs could not be used for investments, and so on (Romanian interviews no. 1 and 12).

Preserving this type of regulation for public fund use was in line with what the authors of the changes from the MoE had proposed. This position is well illustrated by the following quotation: “I mean you ask for the money for a certain thing, and then you say ok, I changed my mind. No. You say I want to do other activities, it’s not possible that...I think this contract [stating the allocation for categories] is very generous...” (Romanian interview no. 6, p. 2). In other words the MoE did not want to provide complete freedom to universities in public funding use, and it perceived the block grant definition as adequate.

Several interviewees from universities noted that state approval for changing the allocation during the year was complicated because the MoF hindered this process. A further problem was that even if the university got approval for the change, it still had to wait for several weeks or one month to be able to use the money for the new purpose (Romanian interview no. 47). Interviewee number 23 described the cumbersome process of shifting money between categories; from subsidy for student transport to investments into building a new dormitory. The university where the interviewee was from had a large surplus from transport subsidies that students did not use. Yet this money could not be spent on any other activity. The shift of money was possible in the end because this person had a close relationship with someone from the MoF who had the power to give approval to the MoE to agree to the change. A condition for a shift of money was that other universities in the country had to encounter the same problem (Romanian interview no. 23).

In addition to the limits on the block grant, universities were also limited in spending resources coming from outside the state budget. This money was treated as public resources (Romanian interview no. 23). This is one of the areas the interviewees criticized the most. For example, interviewee number 17 noted: “It is quite embarrassing not to be allowed to buy something although I have money from my project because it is not on the list of the ministry” (p. 4). “The list of the ministry” means that universities had the duty to make a list of all equipment they wanted to acquire for more than 1800 lei⁵⁵ and the list and its changes had to be then approved by the MoE.

Universities also needed MoE approval to acquire equipment, for repairs, or buying new buildings from non-state resources. The regulations were the same for the use of acquired resources as for state budget money. However, in the case of the acquired resources, if the university could demonstrate it had enough money, all of these approvals were rather formal, with the exception of the acquisition of buildings, for which the procedure was complex. The need for approval and the regulation of acquired funding remained the same even after the 2011 Law adoption. The only thing that changed over the years was the threshold above which universities had to ask for the approval (the threshold was increased over the years).

The 2011 Law made only two changes that could enhance the freedom of universities regarding public fund use. The first one was the introduction of supplementary funding, to provide extra funds to “excellent universities”. According to the interviewees from the reform team, the supplementary funding should have been provided as a block grant. The second was the introduction of funding by study cycle (BA, MA, PhD cycle), instead of funding on a yearly basis (Romanian Parliament 2011). This was supposed to increase the time during which the money from the block grant could be spent, and help improve the quality of HE

⁵⁵1800 lei in 2011 was about 420 euro (<https://www.ecb.europa.eu/stats/exchange/eurofxref/html/eurofxref-graph-ron.en.html>, accessed 1 September 2015).

through separating financial resource allocation from student numbers and performance: if a student did not perform well the university could make them leave without losing the funding for that particular student. The university would just have to keep on a certain percentage of the students it had enrolled in the first year of studies, but would not now have an incentive to keep on low performing students throughout the whole study cycle (Romanian interview no. 8).

There were two problems with both measures. Firstly, they did not change the lack of flexibility in the use of funds provided as block grants from the end of the 1990s. Secondly, they were abandoned after the 2011 Law adoption. In the case of study cycle funding, the MoF did not incorporate it into the law on public funding. Thus budgeting was still organized on a yearly basis (Romanian interview no. 20). In the case of supplementary funding the government did not issue detailed regulations on implementing this measure (Romanian interview no. 49). In addition to these problems, the new legislation limited scope for setting wages. It restricted the number of hours that university employees could work, and hence also their possible bonuses (Romanian interviews no. 1 and 23).

Based on the interviews, the limited liberalization of public fund use was in line with what the authors of change from the end of the 1990s and the early 2000s wanted (Romanian interview no. 33). In the late 1990s financial autonomy was also strengthened in the view of the 1999 Amendment authors, because universities were able to keep the budget surpluses and attract non-budgetary resources (Romanian interview no. 12). In 2011 the reformers were mainly unhappy with the fact that the use of acquired funding was not liberalized, but they did not mention wanting to change the block grants more as an issue.

The reason why limited liberalization of public fund use was acceptable to the reform authors at the end of the 1990s and in the first decade of the 2000s seems to be the doubts

they had about academics. At the end of the 1990s the doubts were based on a fear of insufficient expertise in managing the funds. During the 2011 Law preparation the distrust originated in the fear that academics would abuse greater freedom. This was based on the experience of providing academics with autonomy in regard to the internal management and organization of universities, as introduced in the early 1990s, which led to the establishment of clans and mismanagement of universities.

Furthermore, there were no strong advocates for an increase of university freedom in public funding use. Neither did academics demand more autonomy over the use of the block grant, because they perceived the state as being responsible for financing universities, and some of them did not trust that rectors would be able to manage the money properly. This is illustrated by the following quotation from one of the academics interviewed:

...this is another thing which probably needs to be regulated because ... if the MoE, for example, is giving **all the money in the same basket to use exactly how you want to use it, I am absolutely sure that 100% will use only for the salary** and will have no investment in the next 10 years. Why? **Because the responsibility will be to be more popular for your professors** and they have definitely not very decent salary. (Romanian interview no. 14) [emphasis added]

The authors of the 1999 Amendment and of the 2011 Law mentioned that the biggest opponent of the liberalization of public funding use was the MoF. Yet, they mentioned only one concrete area where the MoF actively opposed the attempt to liberalize. This was in regard to the 2011 Law, when the MoF did not change the law on public finance that would have allowed for the introduction of study cycle funding instead of yearly funding. The interviewees did not mention concrete policy measures related to the introduction of or changes to the block grant itself where the MoF would have tried to alter their proposal.

Foreign models for the block grant

For the block grant, foreign models were only considered in the late 1990s. In 2011, foreign models were used in regard to changes to the way the budget was allocated to universities,

and not for the introduction of study cycle or supplementary funding. Therefore, this subsection only discusses the foreign model used at the end of the 1990s.

The interviewees singled out the English model of the block grant as their inspiration in the late 1990s (Romanian interview no. 33). In reality, the English block grant was more liberal. Universities could use the block grant according to their own priorities as long as it was used to support teaching, research and related activities within broad guidelines set by the Higher Education Funding Council for England (HEFCE 1998). Universities in England were able to switch between recurrent funds and formula capital funds.⁵⁶ The limit on the use of funds was that universities had to deliver a weighted volume of activity that was being funded against the resources allocated. In regard to teaching, universities had to have a certain number and type of students enrolled, as agreed in the contract with HEFCE, with a 5% margin either way on both measures (HEFCE 1998). In other words, in England it was more important that funding was used for delivering certain outcomes, rather than that it was spent according to accounting categories such as salaries, equipment acquisition and the like, as was the case in Romania.

Interpretation of findings through the analytical framework

The above data reveal that public fund use was to some extent liberalized in Romania. This happened mainly at the end of the 1990s and was in line with what the authors of the 1999 Amendment and the 2011 Law proposed. In addition, at the end of the 1990s the new funding system authors only partly translated the English model. As the following analysis shows, the reasons for the partial liberalization of public fund use was caused mainly by the legacies of the early transition, and by what the authors of change coming from a new generation perceived as new appropriate rules. Similar factors were at play during the 2011 Law

⁵⁶http://webarchive.nationalarchives.gov.uk/20120118171947/http://www.hefce.ac.uk/pubs/hefce/1996/c5_96.htm (accessed 26 November 2012).

preparation, when there was no further liberalization. In both time periods, factors leading to the decrease of the appropriate rules' legitimacy also influenced the shape of the changes enacted.

The first factor affecting the legitimacy of the appropriate rules and shaping change at the end of the 1990s, was the generational change among the new funding rules' authors. In the early 1990s, the rules for funding use were defined by the MoF within the Law on public finance (Romanian Parliament 1991). As mentioned in section 4.3.1, at that time it was crucial for the regulation authors that the state closely control public fund use. At the end of the 1990s it was people coming from universities who defined changes to funding. Hence it was a different generation of people than the one designing the Law on public finance in 1991. In line with Oliver (1992), the new generation of reform designers had different expectations, due to their different backgrounds. For authors of change from the late 1990s it was appropriate that universities should have a sufficient level of resources, which they should be partly responsible for acquiring. The experience these actors gained while managing universities allowed them to perceive the rules of public fund use as leading to an inefficient use of money and lack of resources. In the words of Hood (1998), the inefficient use of public resources was an unintended consequence of its rules in place prior to 1998. These rules included funding employees' positions, the lack of option to switch money between lines, and the impossibility of keeping budget surpluses. Unintended consequence then constituted the second factor, alongside generational change, leading to the decrease of legitimacy of the rules introduced in the early 1990s.

The new regulation of public fund use at the end of 1990s was inspired by the English model. This model was not selected by accident. It reflected the key aims of the changes to funding: to make universities freer in their use of public funds, helping them to function more efficiently. Efficient functioning was supposed in turn to lead to more resources becoming

available, which was the ultimate goal of the authors of change. However, the English model was only partly used. There were two reasons for this. The first was connected to the early transition legacies, and concerned the need to respond to the unintended consequences of the 1991 Law on public finance. The change in 1998 specifically tackled the problems of the system introduced in the early 1990s, such as the moving away from funding employees' positions, and allowing universities to keep surpluses.

The second reason for the limited use of the English model was the distrust in academics' abilities to manage funds. This distrust was rooted in the path-dependency of the appropriate rules for public funding use. These rules were introduced during the early transition, and according to them the state should directly manage public funds used by universities. This view on what is appropriate was shared by all the actors in Romania at the end of the 1990s, and there was no major voice advocating more liberal use of public funds.

At the time of the 2011 Law preparation, the block grant had not lost legitimacy and it was not changed. Yet there was generational change among the authors of the section on funding in the Law. These authors were not part of university management at the time of the Law's drafting, unlike the reformers from the end of the 1990s. The new generation of reformers had a different view on what appropriate use of public funding was. In the 2000s it was considered appropriate to connect the use of funding to an increase in quality. Therefore, the proposed changes reflected this view and the reformers proposed introducing supplementary funding as a reward for higher quality, and separating funding from student numbers. The second proposal was also based on the need to deal with the unintended consequence of the funding per student policy introduced in the 1990s, which contributed to keeping low performing students enrolled and thus to decreasing quality. Another factor that influenced the shape of changes in the early 2000s was the distrust in academics, which resulted in there being no further liberalization of the block grant in 2011 Law. This distrust

however, had a different origin than at the end of the 1990s. It was a reaction to what Hood (1998) would call the reverse consequence. The reverse consequence was the formation of clans running universities as a result of autonomy in designing internal organization and management structures in the early 1990s. The 2011 Law authors expected that if similar freedom would be given to universities in the area of funding, the academics would abuse it again.

4.3.3 Factors influencing change in the three areas studied

The translation of the ‘modernization agenda’ was to a large extent influenced by the same type of factors in both reform waves (1998 – 1999, 2011). They included: influence of the increasing importance of new appropriate rules, mainly arising as a result of generational change and the legacies rooted in early transition in the form of path-dependencies and unwanted consequences. This was the case when foreign models were considered, such as; the involvement of external stakeholders in university management in 2011 Law (UK, US, Danish and Austrian models), the increase of university internal centralization (US, Danish and Austrian models), and the (lack of) liberalization of public fund use during 1998 – 1999 (British model) and of public immovable property use during the 2011 Law preparation (Danish and Austrian models). It was also the case when foreign models did not play a role (introduction of advisory body in 1998, change to funding in 2011 Law).

The first factor, generational change, contributed to a decrease in the legitimacy of appropriate rules, and opened them up for change. Due to generational change, actors with different backgrounds and expectations perceived different policies as appropriate, unlike their predecessors. The impact of generational change on the decrease of legitimacy and on the shape of the new policies is illustrated in Table 5. Table 6 summarizes the impact of the early transition legacies on the ‘modernization agenda’ use. In addition to these globally

present factors, several specific factors influenced each of the policy areas studied. These specific factors are highlighted at the end of this section.

Table 5: The impact of generational change on the translation of the 'modernization agenda'

Policy areas Generational changes	Introduction of external stakeholders into university management	Centralization of internal organization and management	Liberalization of public fund and immovable property use
1998 – 1999: new generation from universities connected with university management	Need to increase extra-budgetary resources for universities -> introduction of advisory body.	N/A	Need to increase efficiency of public money use as motivation for liberalization, so that more money is available for required activities -> detachment of funding from employees positions, possibility of budget surpluses, possibility to shift between running costs and salaries.
2011: new generation from universities, yet not from university leadership and not connected to self-governance appropriate rules introduced in early transition	Decrease of legitimacy of self-governance rules making universities unresponsive to needs of society -> need to involve external stakeholders in strategic management and rector selection.	Decrease of legitimacy of bottom-up election system, of power centers at faculty and cathedra level, of uniform organizational structure -> need for top-down professional management and interdisciplinarity.	Tying funding to number of students not legitimate, as it motivates retaining low quality students. Need to increase connection of funding to quality. Introduction of supplementary funding.

Source: Author's compilation based on interpretation of interviews and documents

The table above shows how different backgrounds and cultural expectations, which according to Oliver (1992) accompany generational change, altered what the reform authors

perceived as appropriate. For reformers who led changes in HE at the end of the 1990s, rules limiting universities' entrepreneurship and efficient use of funds were inappropriate and needed to be replaced. Ten years later reformers not connected to university leadership and to the definition of rules for university management introduced after 1989, saw as problematic other characteristics of HE, namely: universities' lack of understanding of society's needs, unprofessional university management, and funding not stimulating universities' quality.

Table 6: Influence of early transition legacies on the translation of the 'modernization agenda'

Impact of factors on policies studied Factors influencing change	Introduction of external stakeholders into university management	Centralization of internal organization and management	Liberalization of public fund and immovable property use
Path-dependency in regard to academics as legitimate policy designers influencing final form of policy through political parties. Behavior of academics shaped by self-governance rules	In 2011 Law, unlike in model countries: advisory body did not have a strategic management role; in the rector's appointment alternative academic senate has decisive say on the candidate and on selection of the members of the recruitment committee; an alternative to rector's appointment in the form of general elections was introduced.	In 2011 Law, unlike the original aims of the reformers - not possible to have closer definition of departments as interdisciplinary units; unlike in model countries preservation of faculties and of internal organization regulation in the law and of the power of government to approve the establishment of faculty.	N/A
Path-dependency of self-governance model structuring the behavior of changes' authors	In 1998 – 1999: introduction of advisory body only optional, without strategic management functions.	In 1998 – 1999: not accepting proposal of PHARE experts to have state introducing the decentralization of management to faculty level through decentralization of funding. This has to be up to universities. 2011: Preserving elections of the department head; involvement of the academic senate in areas that in the model countries were in the hands of the executive bodies (in selection of deans, in department's evaluation & re-organization)	N/A
Path-dependency of state as owner and manager of public property and funding administered by universities	N/A	N/A	1998 – 1999 No liberalization of property use; unlike in model country limited liberalization of funding – preserving budget lines. View that the state has greater capacity than the university leaders to manage funds and property. 2011: No liberalization of fund and property use
Reverse consequences of bottom-up election system contributing to clans leading universities	In 2011: Introduction of appointment of rectors and direct general elections of rector decreasing influence of clans on who will lead the university.	In 2011: Lack of liberalization of universities' internal management and organization. Instead more regulation of middle management's competencies introduced.	In 2011: Lack of liberalization of public property and funding use – fear of abuse by university leaders.

Source: Author's compilation based on interviews and Romanian Parliament 1999; Romanian Parliament 2011; Presidential Commission 2007; PHARE 2001; Fielden 2008; Powell 2013; Federal Ministry of Education, Science and Culture of Austria 2009; Danish Act on Universities 2003; Bulette 2013a; Bulette 2013b; HEFCE 1998; Higher Education Funding Council for England 1996.

As Table 6 shows, on the one hand, path-dependency in regard to self-governance and the actors promoting it led to the preservation of some characteristics of university autonomy in terms of university internal organization and management, and the university's relationship with external stakeholders. On the other hand, path-dependency in regard to the model of fund and property use meant preservation of the authority of the state over these areas. The reverse consequences of autonomy given to academics after 1989 represented another factor rooted in the past that limited the introduction of the 'modernization agenda' in regard to both university internal organization and management and public resource use.

The limited liberalization of university internal organization and management (in 2011 Law) and of public resource use (at the end of the 1990s and in 2011 Law) was also caused by the absence of actors advocating it. The absence of liberalization advocates represents the first of the specific factors influencing the translation of the 'modernization agenda' in Romania which are not described in the tables above.

The second factor encompasses two unintended consequences of the appropriate rules introduced after 1989. The first was the unintended consequence of the rigid regulation of funding, also characterized by tying most of the funds to the employees' positions. The unintended consequence of this regulation was an inefficient use of public resources leading to a lack of money for the activities that universities needed to fund. The necessity to respond to this unintended consequence was one of the reasons for the English model's limited use. In other words the authors of change took on board only those parts of the English model that helped to tackle the unintended consequences of the Romanian system while disregarding other parts. The second unintended consequence stemmed from the bottom-up self-governance system. This system contributed to the creation of power centers within universities at the level of faculties and cathedra, and therefore also to universities' internal division. During the 2011 Law preparation, the response to this unintended consequence was

the introduction of new multidisciplinary departments that dismantled cathedra and hollowed out the faculties' competencies. This shook the existing power centers. Therefore there was no need to copy the foreign models (US, Austrian and Danish) in regard to the selection of the head of the department, because this would not have addressed the unintended consequence.

The third factor was that there were two policy measures where the 'modernization agenda' was introduced in order to support the aims of another policy area. Firstly, in 1998 the advisory body was introduced not as a tool to enhance the participation of external stakeholders in strategic university management and to strengthen university accountability, as would be the case in the 'modernization agenda'. The aim was rather to follow the new appropriate rules in regard to university funding, meaning that the university became responsible for generating part of its funding. The advisory body, through its engagement of company representatives in university life represented one of the ways to gain extra resources. Secondly, in 2011 Law the aim of changes to funding (separating it from the number of students, adding supplementary funds) was not so much to further use the 'modernization agenda' in the area of funding, meaning to enhance the universities' liberty in public resource use. The changes were introduced more to enhance universities' quality.

4.4 Slovakia

4.4.1 Early transition in Slovakia

In Czechoslovakia⁵⁷ the trigger for the overthrow of the communist regime was the student demonstration on 17 November 1989 in Prague. Shortly afterwards, changes occurred in all areas of society, including in the design of the new HE governance institution.

Three important developments during early transition in Slovakia shaped the post-communist HE governance institution. Firstly, changes introduced by the practice of academics, and by the education minister's non-legislative measures. These overlapped with the second important process - the preparation and adoption of the first post-communist HE Law 172/1990 (1990 Law) in 1989 - 1990. Thirdly, the preparation and adoption of amendment 324/1996 to the 1990 Law (1996 Amendment).

In all these events, both academics and MoE leadership played a crucial role. The key characteristics of the transition HE governance institution were that universities became autonomous and internally decentralized, while their funding and property remained directly managed and owned by the state, and the MoF retained a decisive say in these areas.

4.4.1.1 Events leading to design of early transition HE governance institution

Pre-1990 HE Law changes

Higher education started to change within days after the student demonstration. At some universities, students and teachers began to replace the existing management structures and managers. The key idea was to replace the top-down command structure with bottom-up democratic elections. Faculties, followed by universities, established new self-governing bodies (senates) and started selecting their new leaders (rectors and deans) (Koucký 1990). Several academics from universities in the Slovak capital Bratislava decided to coordinate the

⁵⁷ Even though this chapter studies Slovak HE, I start with developments in Czechoslovakia, because Slovakia was part of the Czechoslovak Socialist Republic until 1 January 1993.

changes in Slovak universities, and on 6 December 1989 they established together with students the national-level civic organization, Academic Forum of Slovakia (Forum) (Slovak interview no. 1; Benedikovic 1990). The Forum served as a platform for the exchange of good practice in the establishment of new self-governing structures, and to some extent also as a voice representing academics towards nascent political representation. The Forum was deliberately established outside the political movements engaged in broader changes, The Civic Forum in Czech Republic and The Public Against Violence in Slovakia. This was because the academics agreed with the political movements' representatives that politicians should not have influence in academia (Slovak interview no. 1).

The Forum, immediately after its establishment and together with other academics, demanded a new law on HE that would replace communist law number 39 from 1980 (Academic Forum of Slovakia 1989; Slovak interview no. 3). The new Slovak education minister, Ladislav Kovac, an academic himself who took office only six days after the Forum's establishment on 12 December 1989, also felt the need for a new law. Thus, he established an expert group to prepare it. The group started work a few days later, around Christmas of 1989⁵⁸ (Slovak interview no. 3).

Even though the HE law was drafted, publicly debated and adopted very quickly, in less than six months, the academics did not wait for the new law and quickly set to work changing management structures and leaders. As result, 90% of deans and rectors had been changed by as early as March 1990 (Koucký 1990). The education minister supported and encouraged this process of introducing self-governing bodies and democratically electing new faculty and university leaders (Slovak interview no. 3; minister's letter: Kovac 1989). In addition, he wanted a legal order to be established and followed, so that steps taken could not

⁵⁸ The law on HE was designed in Slovakia and the law on primary and secondary education was designed in the Czech Republic (Slovak interview no. 3).

be questioned later. Therefore, at the end of December 1989 he started to guide university activities by ministerial letters⁵⁹ (Slovak interview no. 1). The letters dealt not only with new management structures, but also other areas such as admission of new students or changes to the teaching of social sciences, removing Marxist-Leninist ideology (Kovac 1990).

From the point of view of the analytical framework, there were two important developments representing building blocks of the early transition HE governance institution. Firstly, faculty representatives were primary movers in HE change, and were accepted as legitimate policy designers and executors of the policies. Secondly, it was not appropriate for politicians to be involved in defining HE policy, and in influencing university management.

Preparation of the 1990 Law

Alongside the changes at universities, a committee at the MoE was preparing a new law on HE. The ministerial group communicated with the Academic Forum⁶⁰ and also directly with the faculties, which provided some of the input (Slovak interview no. 1). This input was to a large extent incorporated into the law, because ministerial committee members, also academics, shared their university colleagues' views (Pisut 1997). As one of the interviewees puts it: "Partners in public sphere like Ministers and the others were very accommodating, because these were our people." (Slovak interview no. 28, p. 2).

Once the law was prepared it was discussed at all the universities in Slovakia and in the Czech Republic, and with all the organizations representing students and university teachers in both states (Federal Assembly of Parliament of CSFR 1990). As interviewed actors active during the law adoption process noted, there were no major changes made in the parliament. One of the authors of the law summarizes well the acceptance of the law by the

⁵⁹The first letter was sent on 28 December 1989 and the last on 26 July 1990.

⁶⁰Two of 15 members of the ministerial committee preparing the new law on HE were nominated by the Academic Forum (Slovak interview no. 3).

academics: "... there was nothing controversial, because the law was really designed in line with the wishes of universities and faculties." (Slovak interview no. 3, p. 6). In fact the new law to a large extent legalized the management structures introduced by universities and faculties after 17 November 1989.

As mentioned already, there was general agreement that politicians should not interfere in the universities' life. According to all the interviewees active in the early 1990s, this approach was also applied throughout the preparation and adoption of the 1990 Law. There were two reasons for this. Firstly, the intrusion of people from outside of universities into HE reform was seen as contradicting the principle of university autonomy as defined after 1989. Secondly, politicians and the general public did not perceive HE reform to be a priority. There were other pressing economic, social and political issues present, including the formation of new political parties and rising nationalism (Pisut 1993). Hence, if we look at law preparation and adoption through the lenses of my analytical framework, we can observe that political representatives of the state were not the legitimate policy designers. The academics were. At this time, MoE leadership gained the role of author of the change.

The amendment 324 from 1996 to the 1990 Law

The law adopted in 1990 was amended four times before its replacement in 2002. The most important amendment from the point of view of the present dissertation, was amendment 324 from 1996 (1996 Amendment). This amendment reinforced university management structures built on independent faculties, the role of academics as legitimate policy designers, and the appropriateness of universities being closed from their environment.

The 1996 Amendment preparation was very different from the designing of the 1990 Law. It took place under the government led by authoritarian prime minister Vladimir

Meciar.⁶¹ The education minister in that period (1994 – 1998), Eva Slavkovska from the Slovak National Party, was not very interested in HE, according to several interviewees from the MoE and academia (Slovak interviews no. 9, 14, and 15). She left the preparation of the law amendment to high-level bureaucrats. According to one of them, the prime minister had a say in the direction of the amendment, and wanted to introduce more state involvement in university management (Slovak interview no. 14). This is discussed in more detail in the following part on the appropriate model of HE governance.

What is interesting is that before adopting the 1996 Amendment, there were several attempts by the government to change the 1990 Law (Jh 1996). For example in July 1995, the MoE had to withdraw its proposal under pressure from the academics. This shows that even though academics were not partners in defining changes at that time, they remained the legitimate actors, whose opinions had to be respected, at least to some extent, even by the authoritarian prime minister. In other words the position of academics as legitimate policy designers was reinforced.

Lack of international influence

Foreign models inspired none of the three events discussed, even though as early as 1989 – 1990, the authors of the law were familiar with German and Austrian HE systems, and in 1992 the OECD had provided its own recommendations for the reform of Czechoslovak HE (OECD 1992; Slovak interview no. 3; Pisut 1997). The reason for not using foreign models in 1989–1990 was that the primary aim of designers of the new HE governance institution was to move away from the HE communist system (Horakova 1990). In 1996, the authors of the amendment were mainly reacting to what they perceived as problems in the implementation of the 1990 Law. They also had to take into account the ideas of the prime minister, who

⁶¹More on the authoritarian rule of Vladimir Meciar at: <https://freedomhouse.org/report/freedom-world/1999/slovakia> (accessed 14 February 2016).

wanted to return to greater state involvement in university management (Slovak interviews no. 9 and 14).

4.4.1.2 Early transition HE governance institution in Slovakia

Change to university internal management

The changes to university management were mainly driven by the imperative to move away from the model in place before 1989. Until 1989, Czechoslovak HE experienced an extreme form of centralized state command (OECD 1992). This was demonstrated in three ways. Firstly, the managers of a university and its subunits (faculty, cathedra,⁶² etc.) were appointed top-down. Secondly, decisions were made top-down, without academics' and student participation. Thirdly, the whole process of management was controlled and subordinated to the approval of the relevant communist party units (Slovak interview no. 1; Harach et al. 1991).

After the 1989 revolution the pendulum shifted in the opposite direction, towards a high level of decentralization and democratization of management (Devinsky 2000). This meant that power over universities was decentralized to faculty level, and that the selection of university and faculty leaders was made through bottom-up elections. One of the actors active in the 1990 Law preparation noted that changes were aimed at strengthening faculties, and not so much universities as a whole (Slovak interview no. 3). The OECD pointed out that the changes in Czechoslovakia introduced two levels of autonomy; autonomy of universities from the state, and autonomy of faculties from the universities (OECD 1992). Any attempt to centralize power at university level would at that time have provoked an 'allergic reaction' among academics (Slovak interview no. 1).

⁶²Cathedra is an organizational subunit of the faculty, which is organized around one or several related study programs such as cathedra of psychology or cathedra of Slavic languages.

The first moves towards decentralization of university management were made during the spontaneous introduction of new self-governing bodies, at the end of 1989 and beginning of 1990. This was carried out from the bottom by the academics, and from the top by the new leadership of the education ministry. In regard to the bottom-up activities, it was important that the self-governing structures introduced after 17 November were first built at faculty level (Benedikovic 1990). Only after new management structures were in place, and elections of new managers had taken place at faculty level, were central level management (rectors) and its selection procedures changed (Slovak interview no. 1). The faculties represented their interests directly at national level in the Academic Forum. One of the newly elected deans at Comenius University demonstrated well the greater importance of the faculty level over the university one, in stating that self-governance at faculty level was a necessary condition for the whole university to perform well (Hvorecky 1990). Similarly the Academic Forum of Electro-Technological Faculty of Slovak Technical University declared in its programmatic document from 30 November 1989 that it would strive for a decentralized model of management based on the autonomy of faculties and key role of cathedrae (Academic Forum of Electro-Technological Faculty of Slovak Technical University 1989). In their view, only this way could the conditions for good quality pedagogical and research activity be achieved.

Simultaneously, the top level (education ministry) supported the democratization and decentralization of universities. Education minister Kovac communicated directly through his letters not only with university leadership, but also with the representatives of all the faculties, regulating the sector ahead of the adoption of the 1990 Law. The minister did not rely on university central management to take responsibility for all university subunits, instead considering the faculties to be responsible for themselves.⁶³

⁶³ For example in his letter from 28 December 1989 (Kovac 1989), the education minister encouraged faculties to elect new post-communism deans that he would then nominate, and would inform rectors about the changes.

These decentralization and democratization principles were enacted in the 1990 Law. The following table compares measures on internal organization and management in the last communist law, 39/1980, with the first post-communist law 172/1990.

Table 7: Universities' internal organization in last communist and first post-communist HE Law

	Law 39/1980	Law 172/1990
Who established faculty	Universities have the option to be divided into faculties; if no faculties then there are cathedrae. Federal Czechoslovak government established faculties.	Universities have the option to be divided into faculties. University senate established faculties.
Who established cathedra	Rector (usually) based on proposal of dean, and after approval of education minister of Slovakia/Czech republic.	Faculty senate discussed establishment of subunits, and proposed a statute that involved the organization structure of the faculty.
University statute	Issued by education minister, and in line with this statute rector then issued rules for lower level units.	Approved by university senate.
Defining the borders of the faculties in the law	Faculty was basic organizational unit of university, managing and delivering education and research.	Faculty had legal entity status. University was legal representative of faculty towards third parties but only in areas that were decided by faculty senate.
Economic powers of subunits	N/A	Faculty could raise its own extra-budgetary resources.

This mechanism of election was based on the combination of the communist law in place and the democratization process. Law 39/1980 stated that the rector proposed the dean to the minister, and hence the minister was responsible for appointing the deans. Yet as democratization was the key principle of the higher education reformers, after 17 November 1989 the proposal of a dean came from elections and not from the rector.

Table 8: Universities' internal management in last communist and first post-communist HE Law

	Law 39/1980	Law 172/1990
Level of details about management bodies of the subunits (faculty and cathedra) in the law	Tasks of managers at each (rector, dean, head of cathedra) level were specified in detail.	Specified powers of rector, dean, university and faculty secretary, university and faculty science councils, university and faculty senate, defined areas where the senate decided by secret vote. Detailed description of the content of university and, to some extent, faculty statutes.
Bottom-up vs. top down management structures	<p><u>Top-down appointments:</u> Rector proposed by education minister and appointed by president. Rector proposed vice-rectors appointed by education minister, who also decided about their number and their area of work. Rector proposed deans to education minister, who appointed them. Vice-deans appointed by rector based on dean's proposal; number and area of work of vice-deans defined by education minister. Cathedra head proposed by dean and appointed by rector. Each manager was responsible to the higher level (head of cathedra to dean; dean to rector; rector to education minister).</p> <p><u>Top-down management</u> The MoE managed the universities. Key management figure at each level was rector, dean, cathedra head; there were no participatory bodies, such as academic senate. Dean could act on behalf of university in areas concerning faculty, to the extent stipulated by the university statute.</p>	<p><u>Bottom-up elections:</u> Rector proposed by the university senate and approved by Minister. Rector appointed vice-rectors with the university senate's agreement Faculty senate elected dean and approved vice-deans proposed by the dean. Dean was accountable to the faculty senate & to the rector in the areas defined by university statute; rector was accountable to the university senate, & on some issues to education minister.</p> <p><u>Management power at faculty level</u> Faculty senate defined faculty statute, created subunits, approved budget of subunits, decided on number & structure of employees; the faculty statute involved faculty organizational structure. Faculty science council dealt with research & education issues of faculties, proposed appointments of junior professors & nominations for professors to the university science council. University & faculty senate nominated representatives to the national level representative body, the HE Council.</p> <p><u>Top-down management:</u> Decision about proposals for professor were made in university science council & rector appointed all junior professors. University senate approved faculty budget & statute in terms of its correspondence with the university statute & the laws.</p>

Source for table 7 and 8: Author's compilation based on Federal Assembly of CSSR 1980; Federal Assembly of CSFR 1990

The Table 8 shows both the important changes mentioned above; decentralization of power from state to university and faculties, and democratization. In regard to decentralization, it is important to note that both before and after 1989, the faculties were defined in the law, which stipulated formal borders inside universities. In addition, as one of

the academics active in designing the 1990 Law noted, even prior to 1989 faculties operated quite independently from each other (Slovak interview no. 29). So the centralized management system did not mean that universities were run as one coherent organization, but rather it was about managing the university's subunits centrally.

The 1990 Law strengthened decentralization by providing faculty level bodies (dean, senate, science council) with powers. Most importantly, the faculties gained legal entity status,⁶⁴ and started to decide on their organizational structure, budget, and statutes. They could also raise their own extra budgetary resources. As the Table 8 shows, the university level bodies retained only limited powers over faculties, of which the most important was the decision on distributing the university budget among faculties. Yet even this was to a large extent influenced by the faculties represented in the university senate. The other powers influenced by university level bodies (the naming of full and junior professors, and adoption of faculty statute) were only proposal approvals from faculties.

Decentralization was further enhanced by democratization, which meant that the leaders of university and faculty were elected bottom-up, instead of being appointed top-down. As part of democratization, all faculties gained equal representation in the university senate. This made it hard for the senate to take decisions reflecting the university, and not the faculty, aims. Everyone became accountable to their electorate, and not to the manager at the higher level, in contrast to the period before 1989. Through decentralization and democratization, the faculties became self-governed and relatively independent subunits of universities.

Decentralization of the universities was also increased by introducing a Higher Education Council into the 1990 Law, which represented mainly the interests of faculty

⁶⁴ Legal entity status means that faculties gained legal rights, allowing them to take part in legal relationships.

senates at national level. The Council was composed of one representative from each university, and one from each faculty senate in Slovakia. Since there were many more faculty senates than university ones, faculty representatives always outvoted the universities' representatives (Slovak interview no. 29). The 1990 Law did not enact national level representation for rectors, because they were not trusted. The reason being that during communism, rectors were perceived as occupying political positions, and were thus distrusted by academics (Slovak interview no. 3). The post 1989 rectors soon established the Rectors' Conference that represented their interests at state level (OECD 1992).

The following quotation sums up well why strong decentralization, represented by the legal entity of faculties, was introduced. It was a reaction to the communist centralized system, which led to a fear of political interference in universities.

...it was **NOT possible** to do it differently than it was done, so that faculties would not have legal entity. Later many people complained about this, **but faculties would not allow that the legal entity would be taken away from them. It was the reaction to the extreme centralism because during socialism only the university had legal entity and the rector was superior to the dean. This way it was much easier to politically manage the university from outside**, when you have this kind of hierarchy, because the rector was I think approved by the state level Czechoslovak communist central committee and the dean was approved by the regional communist committee...So if a dean would be misbehaving, the Central Committee would ask the rector to change the dean. When you provide the faculty with legal entity then the rector cannot change the dean...

Q: So people were afraid that the political power could get there through the rector?

A: Yes, because in that time it was still not clear whether it [the regime] collapsed. (Slovak interview no. 3, p. 3 - 4) [emphasis by the interviewee]

Alongside the strong push for independent faculties, neither the interviews nor the analyzed documents suggest that anyone was proposing a solution different from the decentralization introduced through the 1990 Law, and the changes at universities which preceded the 1990 Law.

The appropriate university governance model (two level autonomy) and the policymaking process (author of the change, MoE leadership; the legitimate policy designers, representatives of faculties and universities) were reinforced with the 1996 Amendment. The 1996 Amendment was built on two types of change; one requested by the academics, and the other opposed by them. Within the first one the academics asked for a fuller definition of the powers and responsibilities of different self-governing bodies. Hence the amendment introduced more details about management, both at university and faculty level.⁶⁵ These measures strengthened the formal borders of faculties within the university.

Another set of changes proposed by the MoE introduced what academics perceived to be a limitation of university self-governance. Under the proposals, the MoE increased its direct influence over the faculties. From 1996, the new faculties and the faculty statute had to be approved not only by university senate, but also by the MoE (Slovak Parliament 1996). In addition, the prime minister wanted to directly influence who the dean and rector would be (Slovak interviews no. 1 and 3). This was to be done by enacting that universities would have to follow administrative proceedings in all areas of self-governance, including elections of deans, rectors, the decisions of rectors, deans and academic senates, and the decisions of science councils about appointments of junior and senior professors (Svec 1996a). Under such a regime, all these decisions could be questioned by the MoE, as an actor who could negatively influence an act of the university bodies. According to the rector of Comenius University Svec (1996), this would have given the MoE the power to decide who would be rector, dean, professor and junior professor. The academics protested against such measures, issuing disapproving statements through national representative organizations, such as the Slovak Rectors' Conference and HE Council, and through the largest gathering of university

⁶⁵This concerned, for example, more details on the process of the dean's elections, composition of the senate, and powers and composition of science council (Slovak Parliament 1996).

representatives since 1989, at Comenius University in Bratislava in September 1996, with representatives of 14 universities representing more than 90% of the country's students and teachers (Svec 1996b). The amendment approved in the end stated that the administrative proceedings could only be used in regard to the appointment of junior professors and professors, PhD studies, stipend distribution and disciplinary measures, while not in regard to the election of rectors and deans, along with decisions made by them and the academic senates (Slovak Parliament 1996).

The efforts of the prime minister to gain more control over universities had one important impact. It contributed to the reinforcement of universities' internal decentralization. According to one of the academics influential during the 1990 Law preparation, the two level self-governance structures helped to prevent what the academics perceived to be the prime minister's attempts in 1996 to change academic leaders, and people in more general terms, at universities. These two levels made such changes difficult, because the prime minister would first have to change the rectors, a problematic step as the university senate elected the rector. But even if the rector was to be changed, the new rector could not change the dean, because the dean was elected by the faculty senate. Finally, it would be hard for politicians to fire individual university employees, because only deans could do this, and they were not accountable to politicians, but to the faculty senate that elected them (Slovak interview no. 3).

In short, the academics and the wider public were re-assured in 1996 that strong self-contained faculties helped prevent the negative interference of government into university functioning. Simultaneously, the partial success of the protests reinforced the view that the academics were legitimate policy designers in the area of university management. Even a semi-authoritarian prime minister accepted some of their proposals.

Lack of liberalization of fund and property use

Unlike university management, not much changed after 1989 in regard to funding and property use by universities. Throughout the 1990s, universities remained budgetary organizations, which meant that the money allocated to them had strings attached, and they only administered property owned by the state. During the preparation and adoption of the 1990 Law, there was no discussion on changing this, or about the liberalization of fund and property use.

Based on the interviews, the authors of the 1990 Law did not attempt to change anything regarding fund and property use, and there was no strong demand for such changes from faculties. In regard to the use of money, the MoE's new post-communist leadership felt during the 1990 Law preparation that there was enough flexibility in the use of money⁶⁶ and that it did not have sufficient expertise to change the system. The new MoE leadership kept the same people in the finance department, so as not to lose their existing expertise (Slovak interviews no. 2 and 29).

After the adoption of the 1990 Law, there were some proposals from the education ministry and the Rectors' conference to liberalize the use of money and property. Yet until 1999, when new HE laws started to be prepared, there was no systemic attempt to introduce freedom in funding and property use by universities. As a result, during the 1990s the appropriate model of funding and property use remained similar to that in place during communism. The state (MoF and finance department of MoE) continued to be the direct manager of these resources.

⁶⁶ The subsidy from the state budget was divided into: salaries, running costs, large investments (Ministry of Education, Youth and Sports of Slovakia 1991). Salaries were distributed according to a statewide wage grid, for operating costs there was a ceiling concerning how much each item can cost, and the possibility to shift between programmatic areas was limited (OECD 1992).

Unsuccessful attempts to introduce external stakeholders

There were two unsuccessful attempts to introduce external stakeholders into university management during early transition, both within the proposal of the 1990 Law. In the law proposal submitted to parliament in March 1990, the university and faculty academic senates could contain external stakeholders, while their science councils were obliged to include them (Kusy 1990).

The law adopted in May 1990 left out these measures. The definition of the senates' membership became more restrictive in regard to external members than was the case with science councils. The 1990 Law stated that members of senates could only come from the academic community of the respective university/faculty, while the science councils were supposed to be composed of teachers, researchers and other experts (Federal Assembly of CSFR 1990). The definition of science council composition left space for engaging people from outside of the university, but unlike in the law proposal, this was no longer compulsory for the science councils. In addition, their role did not impact on university management directly.

The interviewees provided different explanations for the enacting of different restrictions to external stakeholder participation in the science councils as compared to the senates. For the former, the aim really was to introduce members of the Academy of Science into the science councils. The reason was that people from the Academy were collaborating with universities in teaching and research, so it seemed useful that they would be present in the body supervising the quality of research at the respective universities (Slovak interview no. 28).

In the case of academic senates, the academics wanted to eliminate external influence in order to ensure academic freedom, so that they could do what they perceived as important

(Slovak interview no. 1). This view is reflected in the demand of the Academic Forum from 20 March 1990 to leave out from the draft law the possibility to have representatives of practitioners in the academic senates (Academic Forum of Slovakia 1990). According to the Academic Forum, such a possibility would constitute infringement of the academic freedoms and autonomy of universities and faculties. As Koucký (1990) summarizes, the participation of external stakeholders would have gone against the key principle of self-governance, because self-governance meant independence of universities not only from the state, but also from other actors, such as employers, businesses, regional and local communities, and trade unions. By isolating universities from the outside world, they could return to their original purpose, and universities could become a community of people governing their own affairs (Slovak interview no. 28).

In 1996, the independence of universities from state involvement in their managing structures was reinforced. At that time universities were struggling with the prime minister's attempts to influence who their managers would be, and the efforts of the education ministry to influence the decisions of the self-governance bodies. According to one of the academics active at that time who was interviewed, it turned out to be good that universities were isolated from the outside world in 1996, because this situation, and especially the strong academic senates, helped them to resist the prime-minister's interference (Slovak interview no. 1). In other words, in 1996 the management model of self-contained universities was reinforced.

4.4.1.3 Interpretation of the findings through the analytical framework

1989 – 1990 brought about substantial changes in HE, this being a key characteristic of a critical juncture (Collier and Collier 1991). The critical juncture led to the design of a new HE governance institution. The new institution represented a response to the weaknesses of the previous communist institution (Hood 1998) and was based on what the authors of change and legitimate policy designers perceived to be appropriate (Olsen and March 2004).

The university management model introduced within the new HE governance institution addressed the problem of a top-down centralized system with communist party intrusion into universities. The appropriate 'answer' to this problem was, according to the authors of change (the MoE) and the legitimate policy designers (academics), decentralized self-governed universities. It was not appropriate for external stakeholders to interfere in university life. The appropriate role of the state was to provide and manage funding and property.

The appropriateness of the university management model, with strong faculties and isolation from the outside world, was reinforced in the mid-1990s. There were two reasons for this. Firstly, the authors of change (MoE leadership and the prime minister) reinforced the idea, introduced in 1989 – 1990, that academics were legitimate policy designers influencing the final form of the adopted change. Secondly, academics as policy designers promoted two-layered (university, faculty) autonomy, and the idea of a university which should be run by academics without the involvement of external actors. This was what Thelen (1999) labels a distributional mechanism of positive feedback; the institution in place reinforced the allocation of the role of legitimate policy designer, who in turn promoted one type of policy while blocking off others.

Another important aspect of the 1996 Amendment was the relatively limited success of the author of change (MoE leadership) in enacting more state interference into university management. The reason was that the behavior of the legitimate policy designers (academics) was structured by different appropriate rules than the behavior of the author of change. From the position of legitimate policy designer, academics were able to influence the final policy in accordance with the appropriate rules structuring their action.

An important process for future policymaking process was the institutionalization of the relationship of two distinct groups of academics within the HE system; the academic senates' members, who mostly represented the interests of faculties, and the rectors. Based on a reaction to communism, when rectors and deans were executors of the political will of the communist party, there was a shared view among academics that university and faculty managers could not be fully trusted in terms of university management, and hence they had to be controlled by the academic senates. Put differently, the relationship between rectors/deans and senators was institutionalized as antagonistic.

4.4.2 Modernization reforms in Slovakia

Reforms in line with the 'modernization agenda' were introduced in Slovakia in two waves. The first was triggered by the law on HE 131/2002 (2002 Law) adopted in February 2002, and the second with amendment 363/2007 (2007 Amendment), to the 2002 Law, which tried to empower the university boards introduced in 2002.

The 2002 Law made changes in most HE spheres, and dealt with all three areas of HE governance institutions studied in this dissertation. It partly centralized university management, liberalized financial resource use, transferred immovable property into university ownership, and introduced university boards with external stakeholders (Slovak Parliament 2002).

The 2002 Law had, according to interviewees who prepared it, three key aims. Firstly and most importantly, it was supposed to introduce economic freedom. This was a very different goal from the early 1990s, when the main objective was to ensure university and faculty autonomy, academic freedom, and democratic university management. According to one high-level MoE representative: "The first law from 1990 was already overcome, it gave back universities the academic freedom. **But the real freedom is economic.**" (Slovak interview no. 19, p. 1) [emphasis added]. The importance of change vis-a-vis economic

freedom was further supported by the fact that all actors involved in the preparation of the 2002 Law considered that the reform would make little sense if it didn't include change to financing.⁶⁷ Secondly, the new law was supposed to introduce Bologna principles. Thirdly, according to the education minister Ftacnik, the law was to ensure that universities would be able to accommodate an increasing number of students while maintaining their quality (Ftacnik 2001).

The 2002 Law was initiated and led by MoE leadership. Based on the interviews, the key actors who led the 2002 Law preparation included education minister Milan Ftacnik, vice-minister for higher education, Martin Fronc, and Peter Mederly, the general director of MoE's HE Department. These people were not connected to the design of the HE governance institution in the early 1990s. Yet they came from universities where they directly experienced the functioning of the early transition institution in everyday life.

Similarly to the preparation of the 1990 Law, there was an MoE committee working on the 2002 Law draft. It was chaired by vice-minister Fronc, and contained representatives of different organizations, such as the Slovak Rectors' Conference, the HE Council, the Students' HE Council, and the Accreditation Committee. The committee mainly included people whose opinions were valued by MoE leadership. In the words of Olsen and March (2004), the behavior of the MoE's committee members and of the MoE's leadership was structured by the same rules of appropriateness.

As in the early 1990s, academics were active in defining and adopting the 2002 Law. However, the position of the rectors differed from that of the faculty representatives (deans, academic senates' representatives in the HE Council). The rectors were influential mainly

⁶⁷The important changes to financing also involved the switch to formula based funding, which is not, however, analyzed in this dissertation.

during the 2002 Law drafting process (Slovak interviews no. 18 and 23). Once the law was submitted for public debate, the rectors did not really participate in amending it, because the draft already included their views (Slovak interviews no. 7 and 26). The opposite applied to the deans, who did not have a representative on the ministerial committee. As soon as the law was drafted, the deans tried to reverse the attempt to centralize university management. The HE Council, representing the academic senates, had similar views to the deans. As will be discussed in detail later, the voices of both deans and the HE Council were to some extent reflected in the 2002 Law. The last important actor worthy of mention regarding the 2002 law was the Ministry of Finance (MoF). Its high-level bureaucrats were strongly against the liberalization of financial resource use, and the transferring of property into university ownership proposed by the MoE. However, the MoF was not successful in its opposition.

According to the interviewed authors of the 2002 Law, the Czech law 111/1998 adopted in 1998 (Czech Law) represented the key source of ideas for the 2002 Law regarding all three areas studied in this dissertation. MoE leadership also looked at other foreign models, mostly in regard to the changes to funding (e.g. Portuguese, British, Israeli, Danish, and Dutch systems). This was, however, in regard to changes to money allocation mechanisms, which are not analyzed within this dissertation.

There were two international reports delivered to Slovakia prior to the 2002 Law adoption, which served to validate reform ideas. The first was an assessment of two Slovak universities (Comenius University in Bratislava, and the Slovak Technical University) by the European University Association (EUA), which concluded that these two universities were confederations of faculties, a situation deemed undesirable. The EUA report served as one of the arguments for university centralization (Ftacnik 2001). Secondly, after the law was drafted, MoE leadership asked the World Bank to assess the law proposal to see whether it was going in the right direction (Slovak interview no. 18). According to the education

minister, the law proposal was, based on this assessment, fully in line with world developments (gk 2001).

The 2002 Law was amended on numerous occasions following its adoption. Yet the most important amendment, from the point of view of this dissertation, was the one from 2007, which tried to strengthen the university boards. Amendment 363/2007 (2007 Amendment) was very large, containing almost 200 points. Its aims were, according to a high-level MoE representative of that time, primarily to enhance centers of excellence, spin offs, and incubators; introduce similar governance structures for private universities as existed in public universities; and make the management of public universities more efficient (Slovak interview no. 12). Improvement of university management was also supposed to involve the strengthening of the position of rectors, deans and boards (Mikolaj 2007b).

This amendment was mainly prepared by the education minister, Jan Mikolaj, from the engineering University of Zilina. MoE leadership did not cooperate with the HE Council at all. They involved only some rectors from engineering universities in Kosice and Bratislava in the amendment drafting, but not the whole rectors' conference (Slovak interviews no. 4 and 6). The HE Council was strongly against the proposed changes in regard to empowering the university board and as will be discussed below, it succeeded in blocking these changes.

The empowerment of the boards in the 2007 Amendment was drafted based on the experience of the authors of change with the HE governance institution in Slovakia. They did not use international or foreign models, despite the fact that those were available to them (EUA delivered recommendations for the HE sector, and the education minister visited the US to become acquainted with HE there).

4.4.2.1 Analysis of the use of the ‘modernization agenda’ in Slovakia

In this part, the use of the ‘modernization agenda’ within 2002 Law is analyzed regarding all three policy areas studied in this dissertation, and in regard to the university boards in the 2007 Amendment. Unlike in Lithuanian and Romanian cases, here the analysis starts with the changes to public fund and property use. The reason is that in Slovakia this represented the backbone of the reform triggered by the 2002 law, and influenced changes in the other two areas analyzed; centralization of university internal management and organization, and the introduction of boards. The changes in these two areas were designed to support the introduction of economic freedom for universities. The 2007 Amendment built on the 2002 Law.

4.4.2.1.1 Liberalization of public fund and property use by the 2002 Law

The introduction of economic autonomy for universities was the building block of the whole reform. The authors of the 2002 Law believed that if they did not change the whole financing system, including both the allocation and the use of money, then HE reform would not make sense. One of them summarized well these views, when describing his motivation for working on this reform:

Well and I said I am in, **but I also determined some conditions. One of them was that I would take this task if I will be able to influence the funding**, because I said that **if I would not have influence over funding then I would not be able to do anything**. Cause the funding is the moving force (Slovak interview no. 13, p. 2) [emphasis added].

Economic freedom was mainly introduced through universities’ change of legal status from state budgetary organizations to public organizations (Slovak interview no. 13). This transformation included the liberalization of money use, comprising also the launch of block grants, introduction of multi-source funding instead of only public subsidies, and the transfer of property universities administered into their ownership (SITA news agency 2001;

Graindova 2001). It in fact meant shifting management powers over public funding and property from the state to the universities (Slovak interview no. 13).

The authors of the law introduced the liberalization of fund and property use for several reasons. Firstly, they perceived economic autonomy as a key part of university autonomy, meaning its introduction was necessary to confirm this autonomy. The former high-level representative of the MoE expressed this need for economic autonomy, which universities cannot function well without, in the following way:

...the state can say we do not want that many astronomers, thus will not provide subsidy for this, but for other selected areas. Yet, it cannot say that you must allocate the money to this item or that item. **Those direct administrative interventions need to be cut. That is when the education will flourish.** (Slovak interview no. 18, p. 6) [emphasis added]

According to another high-level MoE representative, property needed to be transferred into university ownership, because management of university property was not part of the state's remit (Slovak interview no. 19). Another reason was that once the universities became owners of the property, they would take better care of it than when it was managed by state. They would repair rundown buildings, and they would use it in a more efficient way than when they were only administering it (Slovak interview no. 23; Slovak Ministry of Education 2000; Slovak Ministry of Education 2001).

In addition to these reasons, there were three further factors in another institutional order, the economic institution, which contributed to the changes to public fund and property use by universities. Between 1989 and the end of the 1990s, the economic institution in Slovakia changed substantially. Firstly, it moved towards a market economy (Bohle and Greskovits 2012). Secondly, the decrease of direct state involvement in regard to public resource use was becoming popular across sectors (Slovak interview no. 4). Thirdly, the country was in economic crisis due to Meciar's government, and the state had limited

resources for public services, including HE (Slovak interview no. 18), so it was looking for alternative methods of financing in these areas. Hence, the authors of the 2002 Law expected universities to use their economic freedom to gain extra-budgetary resources, and to make more efficient use of the assets provided by the state. This would lead to an increase in resources for universities, which the government was not able to provide. A former high-level representative of the MoE expressed these motivations in the following words:

But the universities should gain the other resources, because we said that they should be able to cover some 10 % [of budget] by themselves from business activities or other and there are schools and countries where this is more. **When school does not have enough money...because the question then is where to get the resources from.** We knew that **money would not be provided by state in big amounts** even though we had ambition to increase state subsidies... (Slovak interview no. 18, p.2) [emphasis added].

Developments in the economic institution did not fit the HE governance institution introduced during early transition, where the state was the provider and manager of funding and property for universities. This misalignment of these two institutional orders also contributed to the need to change the HE governance institution.

Description of change and of the main actors

MoE leadership was the principal actor in terms of initiating change in the area of liberalization of funding and property transfer use. All the university representatives, including rectors, deans, academic senates and students welcomed these changes. The rectors even proposed some of the regulations as defined in the 2002 Law and accompanying legislation, described in the table below (Slovak interviews no. 22 and 23). One of the members of the ministerial committee noted that the liberalization of property and money use served as a motivation for universities to accept the reform as a whole (Slovak interview no. 26). This was important because, as will be discussed later, the reform also included points

which were more problematic for academics, such as the introduction of boards and abolition of legal entity status for faculties.

The liberalization of money and property use included a number of policy measures. The changes adopted included, in regard to property, its transfer to university ownership 11 months following the adoption of the 2002 Law. With this change the universities gained the right to sell, rent, or invest the property, while the law included regulations on how these operations were to be carried out (Slovak Parliament 2002). The rector decided about the use of property, and in the following cases, the rector decided after receiving the approval of the university academic senate and the board: acquisition/selling of immovable or expensive movable property, establishing easement and right of first refusal, and establishing or investing (financially or otherwise) into another legal entity (Slovak Parliament 2002).

Table 9: Changes in funding related to block grant introduction:

Before 2002	After 2002
Line budgeting	Block grant
3 categories of expenditure: wages, goods and services, capital expenditure	2 main categories of expenditure; operational and capital. It was possible to use money from operational expenditure to acquire fixed assets limited by the level of resources available in the reproduction fund of the university. The universities had to establish 4 types of fund: reserve fund (mainly to cover losses from previous year/s), reproduction fund (mainly to acquire property and to maintain it), fund for providing stipends, other funds.
Operational costs and wages were separate categories, and there was no possibility to shift between these lines.	The wages were part of operational expenditure, yet wages could not form more than 80 % of operational expenditure. However, the university could allocate further resources to wages from funds that it generated.
Capital expenditure was split into two categories: one for purchasing equipment and one for investing into buildings.	The equipment for teaching was acquired from operational expenditure.
Subsidies were allocated to the following purposes: education and operational expenditures; for research; dormitories; students' catering; social stipends; stipends for PhD students. No shifts were possible.	State budget granted to universities on a contract basis in the form of four subsidies: 1) for delivering study programs; 2) research, development or artistic activities; 3) development of university; 4) students' social support. The money could be shifted between operational expenditures for the first two categories, but in regard to the money allocated to the second subsidy this applied only to institutional support; the first subsidy (except money allocated as capital expenditure) and second subsidy (only money for institutional support, and without capital expenditure) were block grants. All expenditure within the third and fourth subsidies were specifically allocated and had to be spent for those purposes. Under social support, money was allocated as before for dormitories; students' catering; social stipends.

Table 10: Changes increasing academic freedom beyond block grants:

Before 2002	After 2002
No possibility to transfer unused subsidies from state budget to the next calendar year.	Possibility to transfer unused subsidies received from state budget to the next calendar year (in the case of social subsidies, they have to be used in the next year for social expenditures).
If the university saved some money from state subsidies, then this money was transferred back to the state budget by the end of the calendar year. If the university saved money, for example on energy, the following year the energy subsidy for this university would be cut by the amount saved from the previous year or years.	The amount of saved state subsidies has no influence on the next year's state subsidies in the sense that universities would receive less money because they use allocated money in efficient way.
All revenue generated by the university had to be transferred to the state budget.	The university keeps all the revenue it generates (amendment no. 528/2003 introduced one limitation to the use of profits: 40% of the profit must be used for the reserve fund to cover losses from previous years. If there are no losses, then the profits may be used according to the needs of university)
Wages determined by central wage grid, with possibility to provide bonuses.	Wages determined by central wage grid, with possibility to provide bonuses. Universities gained the option to define their own wage system, but none of them was interested in this. Thus, the same rules as for budgetary organizations were later re-introduced for universities.

Source for table 9 and 10: Author's compilation based on Slovak Parliament 2002; Slovak Parliament 2003; Dobrikova 2010; Bizonova 2014; Mederly 2014

From the above changes, the ones most often mentioned as important and positive by interviewees both from the MoE and universities, were the property transfer, the removal of restrictions in shifting money between operational expenditures and salaries, and the option to keep budget surpluses and money acquired from extra-budgetary sources (Slovak interviews no. 13, 21, 22 and 23).

These policy measures were important, because they stimulated the more efficient use of money that universities received from state, and motivated them to generate more money. Before 2002 there was no option to keep budget surpluses, and universities were pushed to spend the remaining money on anything they could before the end of the calendar year. The

universities faced the risk of receiving less utility money if they saved on this area in preceding years, and hence they tended not to make savings (Slovak interviews no. 13, 20, 21 and 22). The universities were not allowed to keep resources that they generated, so they had very little motivation to acquire them (Slovak interview no. 20). Finally, universities were not motivated to use money efficiently for human resources, because they were not able to shift resources saved to other areas where they lacked funding (Slovak interview no. 22).

The changes presented above were more or less the same throughout the whole policymaking process, including public discussion, debates in government, and the adoption of the law in parliament. Only small changes were delivered in parliament in regard to property management, where some regulations became more restrictive. For example, the value of property that the university could invest without board agreement into an association became smaller (from 1 million SKK - approx. 24 000 euro to 200 000 SKK – approx. 4800 euro) and universities could donate only less valuable movable property (not of 50 000 SKK approx. 1200 euro value but only of 20 000 SKK – approx. 480 euro) (Slovak Ministry of Education 2001d; Slovak Parliament 2002).⁶⁸ MoE leadership did not have any problems with these changes. In fact, it welcomed them, because the MoE was also partly afraid that universities might not behave responsibly with the transferred property (Slovak interview no. 24).

In general there were not very big discussions in parliament about changes to financing, and there was no major struggle among political parties on this issue. (Slovak interviews no. 4, 13, 18, 19 and 23). One of the former leaders of the MoE summarizes the discussion at the level of political parties as follows:

⁶⁸ National Bank of Slovakia exchange rate from April 2002, i.e. from the month when the 2002 Law entered into force (<http://www.nbs.sk/sk/statisticke-udaje/kurzovy-listok/kurzovy-listok/mesacne-kumulativne-a-rocne-prehlady-nbs>, accessed 21 February 2016).

For the parties from right side of the spectrum this was fine and even the left wing parties had feeling that this is as it should be. When the minister says this [minister was from left wing party] and this is how it should be. There was no conflict in this question. For the right parties it is natural, this denationalization, it is enhancement of the economic independence of the universities, they had no reason to have problem with this, and they knew that it should be like this. It could be rather the left wing parties who could protest through using some statist concepts, that it should remain in hands of state and the state should try, but in that time such objections were not put forward. (Slovak interview no. 18, p. 6) [emphasis added].

In addition to revealing that there was no conflict between political parties in regard to the liberalization of money and property use, this quotation also shows that it was quite important that the left wing education minister promoted this, as for left wing politicians he represented the reassurance that this change was good.

However, not everyone welcomed these changes. The Ministry of Finance was against not only property transfer, but also switching universities to public organizations (Graindova 2001; Slovak interview no. 17). This was important, as the MoF was, since the early transition, the main legitimate policy designer in defining policies regarding financial and material resource use. According to one of the former MoE leaders, this negative stance was mainly associated with high-level bureaucrats at the MoF (Slovak interview no. 19). The problem in their view was that universities did not have the professional skills to manage property and money, and they could abuse the property (Slovak interviews no. 4, 17, 18 and 20). What MoF bureaucrats also did not like, was that there was not enough regulation for the transformation of universities into public organizations, and that the MoE was giving up control over universities (Slovak Ministry of Education 2001a; Slovak interview no. 17).

In its comments submitted to the government, the MoF advocated a more gradual transformation of universities, with limitations over property use, prohibition of university business activities, and no provision of an option to keep budget surpluses (Slovak Ministry of Education 2001a). The MoF also wanted universities to be transformed into allowance

organizations,⁶⁹ instead of public organizations. The problem with this would have been that the motivation element would disappear, as universities as allowance organizations would have received less money from the state budget as a result of being able to gain their own resources (Slovak interview no. 24).

MoE leadership did not accept any of the MoF's proposals, and it overruled the MoF (Slovak interview no. 13). This was possible because the education minister was strongly promoting the idea of liberalization of money and property use as a key part of the reform. At the same time, he was from the same political party as the finance minister Schmognerova, who did not want to go against a colleague from her own party (Slovak interview no. 17). Once it was decided at ministerial level that the education minister could go ahead with his reform, in the area of financing and property transfer also, then the MoF bureaucrats left it up to the MoE to define all the regulations in regard to the transformation of universities into public organizations (Slovak interview no. 13).

International and foreign model for liberalization of public fund and property use

The transformation of universities from budgetary to public organizations was built on the Czech model introduced in 1998. One of the former high-level MoE representative described this inspiration in the following way:

...what is absolutely key is that the Czechs were not sleeping and we took from them completely the idea of the public institutions. This means that what concerns the overall change, including the property transfer, the Czechs helped us there a lot. While, I have to say, they were not as lucky, here we were able to 'stand on their shoulders', because what they were not able to solve, such as spending money [budget surpluses] in December [so it does not have to be returned to the state budget], so we solved that. (Slovak interview no. 13, p. 5) [emphasis added].

⁶⁹Allowance organizations had greater economic freedom than budgetary organizations, as they could generate funds and keep them. Yet their state subsidies were cut by the amount of money they were able to generate from sources other than the state subsidy (Slovak interview no. 24).

This quotation reveals that in addition to serving as the overall inspiration for the introduction of universities as public organizations, the Czech case also served as a model for property transfer. The 2002 Law was in this area very similar to the Czech law on HE from 1998.

There were three differences between the 2002 Law and the Czech model of property transfer. Firstly, the Slovak law was more detailed in regard to what universities could do with the property, as it was on every other issue. Secondly, big operations with property and money that had to be approved by the university in Slovakia also had to be approved by the academic senate. In the Czech Republic the academic senate did not enter this process. Thirdly, if a faculty used the property in question, then prior to any decision specified by the law⁷⁰ taken by the board, the faculty senate had to agree to it. If the faculty senate would not agree to proposed changes, then the university senate had to overrule the faculty senate's decision with a 2/3 majority vote (Slovak Parliament 2002).

For the liberalization of funding use, the MoE leaders interviewed revealed that they designed this change based on experiences from Slovakia, rather than using concrete foreign models (Slovak interviews no. 13 and 18). The leading idea was to do things in the 'normal' way (Slovak interview no. 13). For example, it was not normal for the authors of the 2002 Law that universities were not motivated to generate funds, that they were punished for using utilities efficiently, and that they could not use human resources based on real needs and save financial resources that could be used for something the universities needed. Hence the aim was to correct all these 'abnormalities'.

To promote the changes, the authors of the law looked for validation abroad. The report already mentioned from the World Bank provided a positive opinion on the liberalization of funding and property use by universities, which was then used as an argument by the education

⁷⁰ Property transfer or investment, establishment of easement and right of first refusal (Slovak Parliament 2002).

minister in public debates (gk 2001). Also used during the discussions was the argument that liberalized money and property use was the way things were done around the world. As one of the ministerial committee members commented on it: “This was the direction in which Europe was going, in which world was going.” (Slovak interview no. 4). Another actor involved in law preparation argued that the transfer of property to university ownership was also supported by the fact that Slovakia's neighboring countries had this issue solved already (Slovak interview no. 21). This was not really the case, but it was used as an argument. The changes in using funds and property were quite substantial and were made in accordance with what the authors of the reform wanted.

Factors influencing the changes in public funding and property use

The substantial change to public funding and property use was made due to the loss of legitimacy of the rules of appropriateness in this area. This happened for several reasons. Firstly, the author of change and legitimate policy designer roles shifted from the MoF to the MoE. This could take place for two reasons. The first was that the MoF abandoned its role, due to the finance minister deciding to leave her position as the main actor defining the use of resources by universities. She made this step because in her view the education minister was the appropriate person to define this policy, in order that the whole HE reform could work. Simultaneously, the finance minister had other major issues to deal with, so as to ensure that the country could survive the economic crisis.

Secondly, and more importantly, MoE leadership became interested in defining how universities should use property and public funding. This transformation can be attributed to generational change (Oliver 1992). The new MoE leadership that took office in 1998 had a different background and cultural expectations than their predecessors. It came from academia, where it had experienced the system introduced in 1989, with large organizational

autonomy and very limited economic autonomy. This made the management of universities hard, and led to the perception of the system inherited from communism as not ‘normal’. Hence, the change to resource management was perceived by the new MoE leadership as one of the central issues to be solved. The following quotation from one of the 2002 Law authors demonstrates this well. He compared the policymaking process in the Czech Republic and in Slovakia. In Slovakia liberalization went further because changes to funding were the centerpiece of the reform, so it was possible also to overrule the MoF:

We solved several things that **they [Czechs]** were not able to solve. On the one hand **they were not able to get through the MoF**. On the other hand the **people who designed the reform**...I knew that financing is absolutely key. I had feeling that these people did not concentrate that much on the...**these people who were deciding about the reform in Czech Republic were not that much specialized on financing** (Slovak interview no. 13, p. 5) [emphasis added].

What was also important was that the new MoE leadership had a different view on what was appropriate in regard to fund and property use than the MoF had as the previous author of change. In the view of the MoF the role of the state was to provide resources and to directly manage them. From the point of view of the new MoE leadership, this was not appropriate. In the MoE’s view, the universities should become more active in gaining their own resources, and for this they needed more freedom in the use of resources gained from the state and their own activity. Furthermore, the economic autonomy of universities became, in the view of MoE leadership, the key element of university autonomy.

New authors of change, due to the different rules of appropriateness structuring their behavior, detected problems created by the HE governance institution in place. Some of these problems can be conceptualized within the analytical framework as unintended consequences, whilst others are the result of institutional friction. Examples of the unintended consequences (Hood 1998) of the state owning and managing the resources include the absence of a reward for universities generating extra-budgetary resources, and punishment for those using their

funds efficiently. In the case of property administered by the universities, the buildings were rundown, as universities did not have enough money from the state to maintain them, and had no option to acquire their own resources to cover such costs. Furthermore, they had no motivation to invest in those buildings, as they did not own them and could not be sure that if they renovated a building the state would not take it from them. In addition, they were unable to get rid of redundant property that was simply consuming their resources (Slovak interview no. 21).

The institutional friction developed as different institutional orders evolved in different directions, addressing different issues (Skowronek 1995; Lieberman 2002). This was the case of the HE governance institution in regard to the use of resources versus the economic institution. While the HE governance institution had not changed since 1989 (state allocating and directly managing the resources), the economic institution had three new characteristics; it was moving towards a market economy, the state's direct management of public resources was no longer deemed appropriate, and there was a lack of resources for public services, which was replaced with extra-budgetary funds raised by public service providers. Hence, the HE governance model where the state was responsible for providing resources and managing them did not fit the wider economic context. This created institutional friction. In addition, the HE governance institution in place did not match the rules viewed as appropriate by the new authors of the change either. One method of decreasing the institutional friction was to align the HE governance institution with the economic institution.

In the MoE leadership's words, the unintended consequences and the tensions arising from institutional friction were the things which were 'not normal', and they contributed to the decrease of legitimacy of the HE governance institution. Addressing these problems then represented a source of influence regarding the new model of property and funding use. Another source was the new institution structuring the MoE leadership behavior, which gained

its prominence because of MoE leadership's on-the-job learning. This learning took place when the law authors studied different foreign models, especially the Czech law, which served as a model in the area of transforming universities into public institutions owning property.

The Czech model not only contributed to the decrease of legitimacy of the existing HE governance model in the area of economic resource use. It also influenced the form of the new model of economic resource use, especially in the case of property transfer. Yet as the previous part shows, the Czech model was only partly used. The reason was that the university management model's path-dependency influenced the definition of the new model of public resource use. What remained in place from the early 1990s' university management model was the distrust of universities' central executive management. This distrust was, in 1989, caused by the political connection of university managers to the communist party. In the early 2000s, this was no longer the case. However, rectors were still not fully trusted, as will be discussed in detail in the next section, which deals with the centralization of university management.

During the changes to the model of public resource use, distrust in university management was demonstrated in two ways. Firstly, the 2002 Law was more detailed in comparison with the Czech law. This means that there was a lack of trust that the universities will define the rules for the use of resources in a fair and efficient way. What is interesting is that the actors from the universities also shared this distrust in university management. This is demonstrated by the support of wage regulation, and not using the opportunity to define the remuneration system more freely, as Table 10 shows. Also, one of the former rectors interviewed said that he proposed a ceiling for how much operating expenditure could go on salaries. He did so because he was afraid that universities would not use these funds efficiently otherwise (Slovak interview no. 22). In addition, none of the interviewees, including those

from universities, suggested that universities should have more freedom in using their resources than the law proposed.

Secondly, doubts about the universities' central management were reflected in the fact that major transactions in regard to property and funding had to be decided not only by the board and rector as management bodies, but also by the university academic senate. In the case of property used by faculties, the faculty senate also had to be involved. The university and faculty senate did not have such a position in the Czech model, where there was greater trust in university management bodies. The involvement of the university and faculty senate in decisions on property can be again interpreted as a result of the path-dependency of the university management model introduced during the transition. According to this model, faculties were autonomous from central management, universities had to be self-governed, and it was not appropriate that external stakeholders manage the university. The path-dependency in regard to strong faculties and universities being closed from the external environment are discussed in detail in the following parts.

4.4.2.1.2 Centralization of university management

As discussed in section 4.4.1 on transition, one of the key characteristics of the HE governance institution introduced right after 1989 was a high level of decentralization of university management. Faculties became self-contained units within a university. Reversing this situation, and centralizing the universities' internal management organization, was one of the main goals of the MoE leadership which took office in 1998. Furthermore, it was one of the most controversial points of the 2002 Law.

There were several reasons from the point of view of the MoE leadership why it was important to centralize the universities. Firstly, the strong faculties and weak university-level management contributed to universities' internal division. This caused an inefficient use of resources. For example, different people taught the same courses at different faculties.

Secondly, strong and self-contained faculties further contributed to a lack of interdisciplinarity in research and education (Slovak Ministry of Education 2000). Thirdly, with self-managed, self-contained faculties it would be difficult to liberalize property and funding use, which was the cornerstone of the changes introduced in 2002. One problem would be that, once property was transferred into the ownership of faculties and universities, it would be hard to define which faculty should own shared buildings. Another problem would be that, if each faculty gained its own property and money, this would increase the internal division of the university. Central management would have even less influence over the individual faculties, and the faculties would be more independent from each other, without the need to cooperate (Slovak interviews no. 4 and 21). In short, the transfer of economic powers to universities with strong and independent faculties would lead, in the view of MoE leadership, to further internal division of universities. This would cause more inefficient use of resources, which would be in direct contradiction with the new appropriate rules structuring the behavior of the authors of change.

Description of change and of the main actors

As has been pointed out, the centralization of universities was highly controversial. In addition to MoE leadership, rectors and the Students' HE Council representing students supported centralization of universities (Slovak interviews 4, 23 and 26). In contrast, faculty representatives were not happy about losing power to university-level management. The proposal of management and internal organization centralization changed during the policymaking process, and moved towards a less centralized model.

The initial proposal of the MoE during the law design process was that the division of powers between the university and faculties would be defined in the university statutes adopted by the university senate and faculties. This meant that the powers of faculties would not be ensured by law, but would have to be agreed to at university level (Ftacnik 2001).

Concurrently, faculties were supposed to lose legal entity status, meaning they would not be able to take part in legal relationships (e.g. concluding contracts) without having this power delegated from university level. Both these proposals had the aim of enhancing the internal coherence of the university.

These ideas met considerable resistance from faculty deans represented by the Deans' Club, and among academics from academic senates represented by the HE Council. One key problem deans had with the proposal regarding leaving the division of powers between faculties and universities to the university statute, was that it was the rector who proposed the statute. The deans did not trust the rectors. The rector, according to them, represented faculties that elected him, and he acted in the interests of these faculties, not the whole university (Slovak interviews no. 4 and 30). According to the deans, only the law could protect all the faculties from the rectors' will, because "if something is not in the law then it does not exist." (Slovak interview no. 30, p. 5). That is, only if the powers of the faculties were defined in the law and not in the university statute would it be ensured that all the faculties would possess an equal amount of power.

To decrease the opposition of faculty representatives, the MoE decided to introduce some management powers for faculties into the law proposal (Slovak interview no. 13). Yet this concession had not only come as a result of faculty pressure. Also, the proponents of centralization of university management were not united in regard to what the changes should be. Two interviewees who participated in defining the law noted that even people advocating the abolishing of the legal entity status of faculties were not completely comfortable with leaving it up to university's central management to delegate or not to delegate whichever powers it would see as necessary to the faculties (Slovak interviews no. 13 and 26).

As a result, the law proposal submitted for government approval, which preceded the adoption of the law in parliament, already comprised a list of powers for faculties. These included powers in regard to; organization of studies and the internal structure of faculty, including headcount; management of resources from the state budget; and the option to deliver business activities within the rules defined in the university statute (Slovak Ministry of Education 2001d). The list of powers was not fully accepted by the rectors and faculty representatives. There was one point of contention, which had to be decided by the government. The question was whether it would be the rector or university statute that would delegate the competency to manage individual employment contracts to the faculties' powers. The rectors supported the first option, the MoE the second option, while faculty representatives wanted a different solution, which was to have this competency ensured by the law (Vozar 2001). The government decided according to the rectors' wish, meaning that they should decide about delegating to faculties the power to manage employment contracts (Slovak Ministry of Education 2001c).

Following governmental approval, the draft law was sent to parliament to be debated and adopted. MoE leadership continued debating the draft law with the deans and HE Council, who were not happy with the proposal. Based on the interviews, MoE leadership perceived the Deans' Club to be the toughest opponent of the law (Slovak interviews no. 9, 13 and 18).

According to the education minister, the most discussed issues during the negotiations in parliament with the faculty representatives were the option for faculties to deliver business activities, and to manage employment contracts (Ftacnik 2002). The HE Council also requested the delegation of these competencies by statute (Liska 2002). The HE Council further requested that each faculty should have equal representation in the university senate, just as it was in the 1990 Law, and that the faculty senate should have influence over property used by the faculty (Slovak interview no. 4). All of these proposals were accepted in

parliament. Hence the law ended up ensuring a number of powers for faculties. During the closing speech in a parliament plenary session, taking place before parliament's vote on the law, the education minister presented the final version of the law as a compromise between the MoE and the Deans' Club, HE Council, Students' HE Council and Rectors' Conference (Ftacnik 2002).

International recommendations and foreign models for university centralization

Based on the interviews conducted and documents analyzed, several sources of information from abroad influenced the preparation and adoption of the changes in regard to centralization of university internal management and organization. The first was the assessment by the European University Association (EUA) of two universities; Comenius and Slovak Technical Universities. This provided the MoE with one stimulus for centralization of Slovak universities. According to the education minister, the assessment of the EUA had to be taken seriously, since the EUA was a renowned organization bringing together European universities. The recommendations from the EUA for the two universities were, in the view of the education minister, relevant for all Slovak universities, because the two assessed universities were the biggest and most prestigious in Slovakia. The conclusion of the EUA was that the two universities evaluated functioned as confederations of faculties, and the rector was only someone representing universities, without possessing any real tools to ensure the development of the university (Ftacnik 2001).

Another argument for change was the shared perception by those who supported centralization of university management that, in Europe, it was not 'normal' for faculties to have legal entity status (Slovak interviews no. 13, 22 and 23). Both the EUA reports, together with the view that decentralized university management was not compatible with a developed European system, served as validation tools for how decentralization should take place, rather than as input for ideas.

What helped to formulate the content of the law in regard to the position of faculties, was again the Czech law from 1998. Yet one of the authors of the Slovak law noted that the Czech law had to be adjusted to the Slovak situation (Slovak interview no. 13). The Slovak law was more detailed, describing 14 powers of the faculties, while the Czech law described only 8 powers and left the rest up to the university statute. In addition, the Czech law did not provide the faculty with the option to decide about property use, while in the Slovak law the faculty had such a right (Slovak Parliament 2002; Czech Parliament 1998).

Factors influencing the limited centralization of university management and organization

There were several factors leading to the decrease of legitimacy of the appropriate rules for university internal organization and management. MoE leadership remained the author of change in the area of university internal management and organization, as had been the case since 1989. Yet there was a new generation in MoE's leadership whose behavior became structured by the new HE governance institution, where university efficiency dominated the rules of appropriateness, as discussed in the previous part. Due to this change, the new MoE leadership perceived decentralized university internal management and organization as producing problems, which had to be solved in line with the new HE governance institution.

When new MoE leadership looked at Slovak universities through the prism of a university management model built on the idea of efficiency, it saw that decentralized universities caused unintended consequences. In concrete terms, they induced an inefficient use of resources (for instance, the same subjects being taught at several faculties of the same university by different people) and it reinforced borders between faculties, hindering interdisciplinarity (for example, students could not make use of classes from different disciplines). In addition, decentralized management was also problematic in regard to planned changes, which were supposed to transfer economic powers to universities, and could have led to further inefficiencies, which had to be eliminated as such. Put differently, new

appropriate rules (university as efficient organization) structured the behavior of the 2002 Law authors, who did not perceive the model of university management based on decentralized power as appropriate.

Another point delegitimizing the appropriateness of decentralized management was that, unlike in the early 1990s when two-layered autonomy (autonomy of faculty from university and of university from the outside world) was introduced, a decade later it did not represent a relevant tool for the prevention of infringement on organizational autonomy by government. Nobody mentioned two-layered autonomy as a necessary tool to protect universities from external pressures. The notion of strong faculties ensuring university organizational autonomy lost importance, contributing to the loss of legitimacy of the decentralized management model.

The legitimacy of decentralized management was further decreased, due to the experience of the authors of change with different models from abroad. The reason was, according to Olsen and March (2004), that the new experience challenged the institution in place. In the present instance, the new experience came from centralized university models in Europe encountered through the study of different countries, and through the EUA assessment of the two main Slovak universities. In the light of these two sources of ideas, the decentralized model appeared abnormal, and required changing in order to better fit what was perceived as normal or appropriate.

All the above factors led to a decrease in the legitimacy of the university internal management and organization model introduced during early transition, and therefore opened it to change. Yet, as can be seen from the description above, university centralization was not complete. Centralization happened mainly in regard to the economic powers recently transferred to the universities. The Czech model, which applied some parts of the

‘modernization agenda’ in terms of centralization of power at university level, was not fully used in the Slovak Law. The 2002 Law ensured more competencies for faculties.

The partial centralization of university internal management and organization, and the selective use of the Czech model, had several reasons. Firstly, the path-dependency of faculty representatives as legitimate policy designers in regard to university internal management and organization. The behavior of the faculty representatives remained structured by the appropriate rules introduced after 1989 (university management should be decentralized, and central management, especially the rector, cannot be trusted).

The following quotation from one of the 2002 Law authors captures both path-dependencies, in terms of the persisting importance of faculty representatives as legitimate policy designers, and of the management model promoted by these actors:

...But there was an extreme resistance to it [abolition of legal entity of faculties], because these people, with exception of few schools, everyone wanted to be close to the power. Those people at faculties were usually not enlightened; they just fought to retain what they had. This means that the radical change, meaning complete transfer of power to the level of university, **now let’s not talk about whether this would also be healthy...radical change was not possible** (Slovak interview no. 13, p. 9). [emphasis added].

This quotation illustrates that the main opponents the MoE had to take into account were the faculty representatives. Simultaneously, the MoE was not completely convinced it would be appropriate or “healthy” to leave the decision about internal organization completely up to central university management. In other words, the behavior of MoE leadership was also to some extent structured by the path-dependent early transition model of university internal management and organization, where the state was involved in protecting the autonomy of faculties from universities.

The second important reason for introducing the type of university management centralization seen in Slovakia was that, while it respected the path-dependencies, it also

responded to the needs of the main feature of the new appropriate HE governance model in the 2002 Law. Since only the university had legal entity status, the central management of the university controlled immovable property and financial resource use. Hence, resources could be controlled centrally and used efficiently, in line with the new HE governance institution.

4.4.2.1.3 Introduction and strengthening of the boards

University boards were first introduced in 2002, and there was an attempt to strengthen the boards with the amendment to the 2002 Law 363/2007 (2007 Amendment). These two changes differed in their goals. The introduction of boards in 2002 mainly supported economic liberalization. The 2007 empowerment of the boards aimed at introducing a more managerial style into university leadership. Due to these differences, each process is discussed separately, in chronological order.

4.4.2.1.3.1 Introduction of boards by the 2002 Law

According to the interviewees and the MoE, there were two main reasons for introducing boards in 2002. Firstly, after the liberalization of universities' economic rights, the boards were supposed to fulfill the role of supervisor over the property transferred into university ownership, and of large financial transactions (Slovak Ministry of Education 2000; Slovak interviews no. 4, 9, 13, 18 and 21). The boards offered a solution to the fears of the MoF, that universities would abuse the freedom in property and funding use (Slovak interview no. 4). Secondly, the introduction of boards was supposed to enhance the responsiveness of universities to external stakeholders (Slovak interview no. 18).

Description of change and of the main actors

During the early stages of law preparation there was, according to some members of the ministerial committee, a view that the boards should have greater competencies, including managerial ones, such as the selection of the rector, and control over the university budget (Slovak interviews no. 22 and 26). Yet the idea of making boards more managerial bodies was

already abandoned during the discussions in the MoE committee, because only a few members of the committee supported it (Slovak interview no. 26). For some members of MoE leadership, the introduction of broader managerial functions for boards was even against their view of boards. This was the case for the education minister Ftacnik (Slovak interview no. 18).⁷¹ What was important however for the whole MoE leadership, was that the boards supervise the use of resources, and help to enhance the relationship between universities and society.

The boards were, according to some of the key members of the ministerial committee, welcomed neither by the rectors nor by the representatives of the academic senates, because all academics perceived them as a threat to their power (Slovak interviews no. 13 and 26). Thus the introduction of boards was accompanied with discussions and compromises between the MoE and the academics. While the definition of the competencies was less controversial, the nomination of the board members was one of the most problematic topics of the draft law proposed for public discussion in early 2001 (mar 2001a).

The boards' competencies were mainly designed during the discussion in the ministerial committee. The 2002 Law stated that the board approved the following measures based on the rector's proposal, and its prior acceptance by the university senate:

- acquisition or selling of immovable or valuable movable property,
- establishing easement and right of first refusal,
- establishing another legal entity, or investing (financially or otherwise) in the legal entity established by the university, or in another legal entity.

⁷¹ During the adoption of the 2007 Amendment, Ftacnik helped academics to block the proposal of making the boards managerial bodies.

In addition the board provided comments on:

- long-term strategy and other issues proposed by the minister, the rector, and the chair of the university senate,
- university budget proposal,
- university's intention to take a loan,
- annual report on activities and financial report.

The board could also provide opinions and suggestions on other matters related to the life of the university (Slovak Parliament 2002).

The boards' competencies, as defined in the 2002 Law, reflected the aims of the MoE (supervision of the use of resources, and relationship of university with its environment) and the views of the HE Council, which requested that the academic senates retain a decisive role in university management. This was achieved through the measure that every proposal the board had power to approve had first to be accepted by the university senate. Put differently, the senate maintained a decisive say in managing the property, and in bigger financial transactions. The university senate's prior approval was incorporated into the law proposal during the discussions in the ministerial committee (Slovak interview no. 4).

Once the law proposal was submitted to parliament, there were two other changes made to the board's competencies that strengthened the position of the university and faculty senates. Firstly, the HE Council proposed that the faculty senate had to agree to the rector's proposals targeting property used by the faculty (Slovak interview no 4). As already discussed above, this change strengthened the self-governing position of faculties. Secondly, the chair of the university senate could also take part in board meetings (Slovak Parliament 2002). In

the original proposal, only the rector, or person delegated by him (vice-rector, bursar) could participate (Slovak Ministry of Education 2001d).

Regarding the introduction of the boards, what was seen as a more controversial matter than their competencies was the nomination of board members. According to the draft of the law from early 2001, the education minister was responsible for nominating members of the board, after consultation with the rector (Gaher 2001; Ostrovsky 2001). The same mechanism was employed in the Czech law 111/1998, which served as a model for the introduction of the board, as discussed in detail below. There was strong opposition from academics against such a method of appointing board members (mar 2001c). This opposition included representatives of academic senates, as well as rectors (Gaher 2001; mar 2001b). The reason for the resistance, as expressed by the academics, was the fear that the education minister could abuse his power, and exert political pressure on universities and thus compromise university autonomy (mar 2001a).

MoE leadership was open to changing the mechanism for appointing board members (mar 2001a). The MoE changed the law before submitting it for the government's discussion. According to the new proposal approved by the government, and subsequently by parliament, the boards had 13 members, 12 of them came from outside the university. The rector, with the agreement of the university senate, proposed six members, and the minister also proposed six members, while the rector provided his opinion on the minister's proposals. The university senate proposed one member, which presumably would come from within the university. The academic senate had the right to suggest dismissal of board members proposed by the rector, and of the member proposed by the senate. Otherwise, the body that proposed board members (rector, minister) could suggest dismissal only of those board members it proposed (Slovak Ministry of Education 2001d). The rector and the minister could propose the dismissal of six out of 13 members, while the senate could request the dismissal of the six members nominated

by the rector, plus the one proposed by the senate. Hence the academic senate, as the only body involved in board members' nominations, gained the power to decide about the dismissal of more than half of the board members.

The definition of the board members' appointments and dismissals was a compromise from the proposals of the rectors, the minister and HE Council (Slovak interviews no. 4 and 18). The rectors were satisfied with it, because they gained a major influence on the appointment of board members, since they proposed six of them, and provided their opinion on another six proposed by the education minister. Adding the representative of the university senate to the board, together with the option to influence the dismissal of more than half of the board members and the right of the academic senate chair to participate at board meetings, made the proposal of the boards acceptable to the HE Council (Slovak interview no. 4).

The MoE was also satisfied with the way the board was defined in the law in the end, because it still achieved its key aims; supervision of money and property use, and connection to the outside world. The majority of board members had to be from outside the university (12 out of 13) and these external members were mainly supposed to come from the private and public sector, including national and local governments responsible for education, economy, financing, and social affairs (Slovak Parliament 2002). Such a composition was to help provide the views of external stakeholders on the education and research of the respective university. According to one of the MoE leaders, by nominating people from the financial sector, the universities should also gain professional help in making good decisions about the use of money and property (Slovak interview no. 18). Another former MoE leader noted that the board also having a member coming from the university was actually a good proposal from the HE Council, because this member could not change the decision of the board, but could provide external members with insights from the university (Slovak interview no. 13). In fact, it constituted a second voice from inside of the university, as the chair of the university

senate was also able to participate at board meetings (Slovak Parliament 2002). This suggests that MoE leadership was in agreement with the academic senates' representatives, who perceived it appropriate to have stronger involvement from academic senates in the functioning of the boards

Foreign model for introducing external stakeholders

According to one of the law's authors, the Czech 1998 law served as the model for the introduction of the university boards in Slovakia (Slovak interview no. 13). The Slovak and Czech boards had more or less the same competencies. The key difference was that the Slovak board was much more under the control of the university, in that Slovak academic senates and rectors had more power over the composition and competencies of the board than was the case in the Czech Republic. The following table illustrates this difference.

Table 11: University boards in Czech and Slovak laws

Czech Law 111/1998	Slovak Law 131/2002
Education minister appointed whole board after discussion with the rector.	Education minister appointed members of the board – six of them were proposed by rector with agreement of academic senate, six by education minister after consultation with rector, and one by the academic senate.
Education minister dismissed members of the board following discussion with the rector.	Education minister dismissed members of the board based on the proposal of the body which proposed them. The academic senate could also propose dismissal of members proposed by the rector.
None of the members of the board could be an employee of the university.	Member of the board proposed by the academic senate could be a university employee.
Chair of the academic senate could not participate at board meetings.	Chair of the academic senate could participate at board meetings.
Academic senate was consulted on use of property.	Academic senate had to approve the use of property and major financial transactions before the board's approval.
Education minister approved the board statute.	Academic senate approved the board statute, which was then approved by the education minister.

Sources: Czech Parliament 1998; Slovak Parliament 2002

Factors influencing specific involvement of the external stakeholders

Introduction of external stakeholders into university management represented a departure from the management model introduced after 1989, when such an arrangement was unthinkable. In the early 1990s the involvement of anyone from outside of the university in its management was seen as an intrusion into the university's autonomy. The main factor changing the situation in this area was that the new HE governance institution structured the behavior of the authors of change (MoE leadership), who were part of a generational change. As already discussed, the key appropriate rules of this institution were that universities were responsible for generating extra resources, and for the efficient use of their resources, which they were also relatively free to use. The introduction of boards served as one of the tools for

MoE leadership to successfully introduce university management in line with this new HE governance institution.

Boards represented a safeguard tool for property transfer, and for the liberalization of financial resource use. This is supported also by the observation of one of the interviewees participating in the ministerial committee, who stated that boards helped decrease the negative view of the MoF on liberalization of property and funding use (Slovak interview no. 4).

The involvement of external stakeholders in university management was intended to contribute to the enhancement of university efficiency, meaning it would support the new HE governance institution in two further ways. Firstly, their expertise in finance and property management was expected to help universities behave more professionally in these areas. Secondly, it was hoped that external stakeholders would enable universities to be more responsive to the needs of society and business. In the process, universities could generate, for example, new funds, or use the resources they had more efficiently.

After explaining why external stakeholders were introduced into university management structure, it is important to analyze what factors determined the specific form of this change. The law authors did not choose to follow the ‘modernization agenda’ in terms of introducing boards with strategic management power. They decided instead to translate the Czech model. The reason was that the new HE governance institution, characterized mainly by the importance of university economic freedom and responsibility, shaped the behavior of the authors of change (MoE leadership). The introduction of the board as a supervisory mechanism for economically quite autonomous universities was a part of reform in the Czech Republic. Since the 2002 Law authors used the Czech model to introduce economic autonomy for universities, it was quite logical that they also used the Czech model to define the supervision of the economically autonomous universities. What is more interesting is why the

Czech boards were translated in a specific way, meaning that academics from the respective university had control over the boards, while originally the boards were supposed to supervise the academics.

There were three reasons for the specific use of the Czech model in Slovakia. Firstly, the model of university relations with wider society was path-dependent. In Slovakia, it was still to a large extent appropriate that universities were self-governed and closed off from the impact of external stakeholders. This model was viewed as appropriate by the authors of change (MoE leadership) and by the legitimate policy designers (rectors and academic senate members) and it was introduced and reinforced during the early transition. The self-governance principle also included university independence from the state. Thus in 2002, it was not appropriate for the education minister to nominate all the members of the board, as in the Czech Republic. Also, the university senate had to be involved in the decision-making process, so that external stakeholders would not decide about the university. As one of the members of the ministerial committee put it:

In that time [during preparation of the 2002 Law] there was such view that the **universities** are the organizations, which **traditionally exist, no one should interfere with them, they should be financed as much as possible and then they will manage their operation...** (Slovak interview no. 26, p. 12) [emphasis added].

This quotation nicely illustrates the path-dependency of the university management model, based on the idea that universities should run their own affairs.

Secondly, the specific translation of the Czech model was related to path-dependency in regard to distrust of universities' central executive management. This also has its roots in the university management model introduced in the early 1990s. At that time, academics did not trust central university management, because prior to 1989 it was directly connected to the communist party. As described above in regard to the centralization of university management, the distrust in central university executive management, including the rector and

board, remained in evidence in 2002. In order to assuage this distrust, the Slovak law authors modified the Czech board model by having a strong senate influencing both board composition and its powers.

Thirdly, path departure was evident, both in policymaking process, and partly in the university management model. The rectors became legitimate policy designers in defining the university management model, including university relations with wider society. Therefore, rectors were able to promote the idea that they should have a key influence in nominating board members. The rectors became legitimate policy designers for several reasons. Firstly, rectors at the end of the 1990s were different from the communist rectors from the end of the 1980s, who were not trusted by the MoE and academics. Secondly, the rectors were very active throughout the 1990s in the policy debate with the MoE, including the mid-1990s, when they joined other academics in fighting to preserve university autonomy. Thirdly, they were important actors in the implementation of the new model of efficient centrally managed universities.

Finally, MoE leadership had no problem with any of the modifications to the board's definition, because they were in line with rules of appropriateness structuring its behavior, meaning that universities could become efficient users of resources and economically free and responsible organizations.

4.4.2.1.3.2 Attempt to strengthen university boards by the 2007 Amendment

In 2007, the education minister Jan Mikolaj designed a large amendment to the 2002 Law 363/2007 (2007 Amendment), proposing changes to university management which would enhance, in the minister's view, the connection between universities and the business sector. Empowerment of university boards was part of these proposed changes. According to an MoE leader from that period, one of the key aims of the education minister was to introduce better conditions to connect universities with the business community through centers of excellence,

spin-offs, and technological incubators. The education minister, coming from an engineering university, believed in the importance of connecting universities and business, especially in regard to raising more extra-budgetary resources (Slovak interview no. 12). Another representative of the MoE noted that, in the view of the minister, this connection could not happen if it depended on the decision of the large number of academics in the academic senates; hence there was a need to involve other actors (Slovak interview no. 16). This could have been done, according to the minister, through the empowering of the boards, which included people from business. The empowerment of the boards was supposed to be the tool used for achieving his aim of connecting universities with business, and not an end in itself (Slovak interview no. 12).

Stronger boards at the expense of the senates, according to the MoE leadership, would also help to enhance the quality of university management, which would be more responsive to the public interest, more involved in generating extra-budgetary money, and better able to take strategic, unpopular, yet necessary decisions. The boards would ensure the representation of public interest in the use of money by universities, because universities were mainly financed from public resources (Slovak interview no. 12). Yet if there would be other actors financing the university, then these actors should have influence over university management, including the use of money (Slovak interview no. 27). The members of the academic senate were, in the view of the MoE leadership, not able to represent the public interest, because they followed their personal interests and could have used the extra-budgetary resources only for their salaries (Slovak interview no. 12). In addition, in the view of one of the 2007 Amendment authors, the senates were composed of faculty representatives, and thus the way they allocated the budget reflected the interests of faculties and not of the university as a whole. This made it more difficult to make bigger strategic decisions that did not provide immediate benefits to each faculty (Slovak interview no. 27). Another problem with the senate approving the budget

was that it did not exert pressure on the rector to acquire more resources. The increase of extra budgetary resources was, for the minister, a way of dealing with the low level of university funding. Finally, it was also problematic that the senate selected the rector, because such a rector was not sufficiently professional, and was not independent from university employees, and was thus not able to make difficult but necessary decisions (Slovak interview no. 12).

Description of change and of the main actors

To address the problems with the senates, the authors of the 2007 Amendment proposed three changes. Boards should select the rector, adopt the university budget and define the salary of the rector (Slovak interview no. 27; Smiesko 2007; Mikolaj 2007a). According to several interviewees from the MoE and from the universities, the proposals to increase the powers of the boards came from rectors of two engineering universities, who were in close cooperation with the minister⁷² (Slovak interviews no. 4, 12 and 16). The proposals aimed at enhancing the management of the university, and increasing the impact of the public on university functioning (Slovak Ministry of Education 2007b).

The proposal to empower the boards provoked fierce resistance from the HE Council (Slovak interviews 6, 12 and 16). The HE Council unanimously rejected the changes to the competencies of the boards at its plenary meeting (Slovak Higher Education Council 2007). The HE Council's reasons for rejecting the change were manifold. Firstly, board members were, in the view of the HE Council's chair, not interested in the university as much as the senate members, and did not feel responsible for the university, unlike the university professors (Slovak interview no. 6). Further empowerment of the boards would entail weakening the self-governing principle and increasing the power of the executive bodies⁷³, as

⁷² Juraj Sinay from the Technical University in Kosice, and Vladimír Bales from the Slovak Technical University in Bratislava.

⁷³ The 2007 Amendment involved more proposals strengthening the position of the rector and deans, and was perceived as an attempt to decrease the power of academic senates (Slovak interview no. 6).

reflected by the fact that mainly the minister and rector nominated the board, and in turn the board was to select the rector and define his salary (Smiesko 2007). This way, power would be concentrated in the hands of the rector and board, with decreased involvement of the control body, the senate (Slovak interview no. 6). In addition, the existing boards did not function well. There was often a problem with reaching the quorum. The HE Council also argued that the senates had better inside awareness of the university than the external stakeholders (Smiesko 2007).

In addition, the rector of the biggest and oldest Slovak university, Comenius University, was also against the shift of powers from university senates to boards (Slovak Rectors' Conference 2007). This was not surprising, as this rector was for many years the chair of the faculty, and later of the university senate. Hence his views were very close to those of the HE Council (Slovak interview no. 6). The opposition of this rector, due to the size and importance of the Comenius University in Slovakia, made it even more difficult for the education minister to empower university boards. As the Slovak interviewee active in the protests against the minister's proposal noted, the only rector the education minister was afraid of was the Comenius University rector, because this rector had the whole university senate behind him (Slovak interview no. 6).

As a result of pressure from academics, the MoE modified its proposal. First, it abandoned the proposal that the board should select the rector in the draft amendment submitted for public discussion (Slovak interview no. 27; Slovak Ministry of Education 2007a). Another change took place after the public discussion, and before the submitting of the proposal for government approval. At this stage, the boards no longer had the right, but only the option to suggest a candidate for the rector (Slovak Ministry of Education 2007a).

The third change to the proposed amendment concerned the adoption of the university budget, and it was made after the government's approval, during the discussion of the law amendment in parliament. The adopted 2007 Amendment stated that the university budget had to be first approved by the university senate, before it could be submitted for approval to the board (Slovak Parliament 2007b). Hence the board was not the only body adopting the budget, and the senate maintained its power.

This third change was caused by strong pressure from representatives of the academic senates in parliament. Once the 2007 Amendment was submitted to parliament, the chair of the HE Council was very active in lobbying for keeping the power of the academic senate in adopting the university budget (Slovak interview no 6). The former education minister Ftacnik, under whose rule boards were introduced in 2002, helped the chair of the HE Council in gaining access to MPs from the main governing party, SMER-SD, as he had close ties with this party⁷⁴. This access opened an important avenue for the exertion of pressure on the MPs. For Ftacnik, one reason to help the HE Council was that he, as a member of the university board, had experienced that the board did not function well. Another reason was that he, as someone who introduced boards in 2002, never wanted boards to be university management bodies, as proposed by his successor, minister Mikolaj (Slovak interviews no. 6 and 18). The MPs from SMER-SD became supportive of the views of the HE Council. The key contact point for the HE Council in SMER-SD was the MP Nachtmanova, because she worked in the Parliament's education committee, and was a university teacher. As a result, according to one interviewee involved in the parliament discussions, she understood the problems well (Slovak interview no. 18). In other words, she was one of the academics and shared their view on university management.

⁷⁴ The education minister Mikolaj was from smaller coalition party – The Slovak National Party.

What was also important was that the idea of preserving university self-governance at the expense of boards was shared across the political spectrum, including MPs from both governing and opposition parties (Slovak interviews no. 6 and 16). The position of the MPs is well reflected in the justification of the Parliament's Education and Constitutional Committee proposal, by which senates received the power to adopt the university budget ahead of the board in the 2007 Amendment. The two parliamentary committees argued that students and academics should participate in decision-making on basic questions concerning the functioning of the university. The adoption of the university budget was one such basic issue, and it was proposed that the senate should decide about it, as both students and employees were members of the senates (Slovak Parliament 2007a). Furthermore, one of the interviewees involved in the parliamentary discussions noted that SMER-SD was accustomed to exerting pressure on changing the amendment, because they were in power. Yet if there was any other party in power, then the HE Council would find allies there, because "...the universities stick together in the situation of crisis." (Slovak interview no. 6, p. 5)

The 2007 Amendment was changed in parliament by the MoE, under pressure from senate representatives, because the MoE leadership felt that if the changes to the boards did not reflect the requirements of the HE Council, then the whole 2007 Amendment would not be adopted (Slovak interview no. 12). The only new measure which remained in the adopted 2007 Amendment, as originally proposed by the MoE, was that the board defined the rector's salary (Slovak Parliament 2007b). Based on the interviews, the senate representatives did not view this measure as important. They did not have the power to define the salary of the rector before, as this was the competence of the education minister (Slovak Parliament 2002).

Lack of use of international recommendations and foreign models

Even though there were options to utilize international (European University Association (EUA)) or foreign (US) expertise in redefining the boards, the authors of the 2007 Amendment drafted it based on their experiences (Slovak interview no 12 and 27). The EUA delivered, in 2008, the report on the HE sector in Slovakia. Even though this report was ordered by the previous government, it identified similar problems with the self-governance system as the education minister Mikolaj. The report supported the idea that senates were not the optimal body for adopting the budget, because its members lacked competence in financial management. It also pointed out, similarly to the proponents of board empowerment, the problem that academic senates were unable to make controversial but strategic decisions, due to their democratic decision-making procedures; they represented the interests of faculties rather than the university as a whole, and there was a lack of university responsiveness to the public, which largely financed the universities (Jensen et al. 2008).

The education minister also went to the US, where he visited the top universities and took with him rectors from the five biggest Slovak universities. The trip, however, took place after the 2007 Amendment was drafted. It had a validating role for the minister, insofar as he could show the rectors that, just as in his proposal, US boards had a much more active role, and universities had to acquire a majority of their resources (Slovak interview no. 12).

Factors influencing the limited empowerment of boards

The empowerment of boards was proposed because, in the view of the MoE leadership in office in 2006 – 2010, the rules of appropriateness in place structuring the relationship of universities with wider society were not appropriate. These rules were still mainly based on the decentralized self-governance principle, as introduced during the transition period in the early 1990s. This was in contradiction with what the MoE leadership under education minister

Mikolaj viewed as appropriate. This leadership and its collaborators came from engineering universities, where cooperation with businesses was quite usual, and in their view professional rather than democratically elected university management was required. This was a different generation with different expectations and background than the authors of the 2002 Law. The behavior of this new generation of authors of change was structured by different rules of appropriateness, according to which universities should be responsive to the needs of the business sector and society. They should generate more substantial amounts of non-budgetary funding, and have stronger, more professional central executive management (rectors and boards), which would be better suited to managing the university in strategic ways for the benefit of the organization as a whole, and not for the immediate benefit of individual faculties or academics.

Based on these rules of appropriateness, the MoE leadership identified a number of problems with the self-governance model of management. These problems can once again be conceptualized as unintended consequences (Hood 1998), which decreased the legitimacy of the management model in place. This included strong senates, reflecting the needs of their members rather than of society, employers of graduates, and possible business partners. It also meant rectors accountable to their electorate in the senates, with limited ability to make difficult decisions benefiting the university as a whole, and with little motivation to acquire more resources. Strengthening of supervisory boards represented one of the tools to tackle these unintended consequences.

As already mentioned, the authors of the 2007 Amendment were successful only to a very limited extent in empowering the boards. The main reason was that the faculty senate representatives remained legitimate policy designers in defining university relations with external stakeholders. Their role was respected across the political spectrum. Even the MoE accepted their legitimacy, as it changed the law proposal based on ideas promoted by them.

This was so, because in each political party there were people coming from academia who shared the views of faculty senate representatives. These views were in line with rules of appropriate university management based on the self-governance and decentralization principle, which meant that university people should manage it. Self-governance was more important than efficiency. In accordance with historical institutionalism, the rules of appropriateness were path-dependent (Hall and Taylor 1996). There were legitimate policy designers whose behavior was structured by the path-dependent model of the university relations with external stakeholders. As one of the MoE's former leaders puts it, the Slovak HE system was not yet ready for a shift of power away from self-governing democratic bodies (Slovak interview no. 12). What also remained path-dependent was the distrust in central university management from the rectors and boards. Concentration of power in the hands of rectors and boards was one of the main arguments of the HE Council against empowering boards.

The change of the boards was further limited, because the two rectors from engineering universities who proposed them had little recognition as legitimate policy designers. The legitimate policy designers with the influence over the final form of the adopted amendment, faculty representatives, promoted different rules of appropriateness than the authors of change. In addition the minister also had other issues key for him in the 2007 Amendment (e.g. centers of excellence). Passing the whole Amendment was more important for him than having the measures changing the boards adopted. In short the changes were not introduced, as there were no legitimate policy designers who would incorporate them into the adopted version of the 2007 Amendment.

4.4.3 Factors influencing change in the three areas studied

The analysis of the 'modernization agenda' in the introduction revealed that there was one key factor, generational change among authors of change, that led to the decrease of

legitimacy of the rules of appropriateness, opening them to change in all the policy areas studied. The behavior of the new generation of the authors of change was structured by new rules of appropriateness, which led them to perceive the negative impacts (unintended consequences, institutional friction) of the HE governance institution introduced during early transition, and perceiving different rules as appropriate.

During the preparation of the 2002 Law, the new generation of authors of change came from the universities. Their behavior was structured by a new HE governance institution in line with the ‘modernization agenda’, dominated by the idea that universities should have economic freedom, and be responsible for managing their property and funds efficiently. This view was mainly based on their experience with the day to day (mal)functioning of the early transition HE governance institution.

In regard to the 2007 Amendment preparation, there was a second generational change. In this case, the authors of change came specifically from engineering universities, which typically cooperated more with the business sector than other types of university. Hence the rules of appropriateness structuring their behavior were built on the idea that universities should be responsive to the needs of the business sector and society, which meant also that universities should generate substantial amounts of non-budgetary funding. According to these appropriate rules it was more important that the university was managed professionally than democratically, allowing for cooperation with business.

The following table summarizes the impact of the new appropriate rules resulting from generational change in detecting the unintended consequences of the early transition institution, which represented one of the factors leading to the decreased legitimacy of this institution, and opening it to change:

Table 12: Generational change and unintended consequences contributing to the institution's openness to change:

Rules of appropriateness structuring behavior of new generation of authors of change:	2002 Law - economically free university responsible for efficient management of resources		2007 Amendment - professionally managed university generating funds & responsive to the needs of its environment
Policy areas:	Use of funds and property	Internal management and organization	University boards
Generational change leading to the perceiving of:	unintended consequences of state owning & managing funds & property -> no motivation for generating extra-budgetary funds and for using utilities efficiently; motivation to spend budget surpluses on anything at the end of the year; rundown buildings.	unintended consequences of internally decentralized university -> inefficient use of human resources (many teachers teaching same subject at one university) & lack of interdisciplinarity	unintended consequences of strong senates -> lack of universities' responsiveness to the needs of wider society & no motivation to generate extra-budgetary funds; rector accountable to senate-> inability to make important strategic decisions.

Sources: Author's compilation based on interviews and Slovak Parliament 2002; Slovak Parliament 2007b

Generational change led not only to defining problems which can be conceptualized as unintended consequences. It also contributed to perceiving the mismatch between the HE governance institution in the area of use of funds and property use (appropriate that the state was provider, owner and manager of the funds and property), and the economic institution (appropriate indirect state management, public service providers competed on market & generated non-budgetary resources). This mismatch between institutional orders, or as Lieberman (2002) calls it, institutional friction, further decreased the legitimacy of the appropriate rules.

During the preparation of the 2002 Law, two other factors, alongside generational change, further decreased the legitimacy of the early transition HE governance institution. These could be found in the area of university internal organization and management. Firstly, what changed was that the decentralized model as introduced during the early 1990s was no longer seen as a critical defense mechanism guarding against the intrusion of politicians into universities, as it was in 1996. Secondly, the authors of change had new experience of centralized European models Olsen and March (2004), which challenged the institution in place. Due to this experience, they learned that the decentralized model of university internal management and organization was, in their view, not compatible with well-functioning HE systems in Europe, and hence its legitimacy became further questioned.

Once the HE governance institution was open to change, there were several factors that influenced the translation of the ‘modernization agenda’. During the preparation of the 2002 Law, a new HE governance institution, based on the idea of economic independence, efficiency and responsibility of universities, shaped more than just changes in regard to funding and property use. It also influenced the shape of changes to university internal centralization and management, and university relations with wider society. Both these areas were deemed to be supportive of the successful liberalization of funding and property use. In the case of university centralization, this was reflected through the enacting of legal entity status only at university level. In terms of university relations with wider society, the boards were primarily designed to enhance efficiency in the use of property and funding, and prevent abuse in these areas.

Secondly, the Czech HE law from 1998 was chosen as a model for all three policies analyzed. Yet this model was not copied but translated. Its translation was shaped by the new rules of appropriateness already mentioned, as well as by the path-dependencies. A Key path-dependency was that faculty representatives remained legitimate policy designers, and their

behavior remained structured by the university management model introduced in the early 1990s based on the idea of self-governance, decentralization, and distrust in university central management. These path-dependencies also remained in place during the preparation of the 2007 Amendment, and caused to a large extent the authors of change to be unable to empower boards as planned. The following table summarizes the impact of path-dependencies on the 2002 Law and 2007 Amendment.

Table 13: Impact of path-dependencies on 2002 Law and 2007 Amendment

Path- dependencies	Liberalization of funding and property use in 2002	Centralization of university management in 2002	Introduction of boards in 2002	Empowerment of boards in 2007
Path-dependent distrust in central university management rectors	Unlike in Czech model, detailed regulation of fund & property use; in addition to rector & board, academic senate also deciding about large financial & property transactions.	More powers of faculties specified in the law than in the Czech model, to protect faculties from central university management	Unlike in Czech model, strong academic senate representing faculties in regard to membership, & powers of the board.	Board can only propose candidate for rector, but does not select him vs. original proposal, which was that board proposed & selected the rector.
Path-dependence of self-governance management model promoted by faculty representatives	N/A	N/A	Minister could not nominate all the members of board as in Czech model. Unlike in Czech model, senate involved in decision-making process.	Academic senate approved budget ahead of board vs. original proposal, which was that the board adopted university budget.
Path-dependence of decentralized management promoted by faculty representatives	Unlike in Czech model, faculty senate had a say in changes related to property used by the respective faculty.			N/A

Sources: Author's compilation based on interviews and Slovak Parliament 2002; Slovak Parliament 2007b; Czech Parliament 1998

In addition to the path-dependencies, there were other specific factors which shaped the introduction of boards in 2002, and which contributed to their not being empowered in 2007. The specific factor shaping board introduction was that the rectors became legitimate policy designers, and influenced the definition of board membership in such a way that they gained a major say in who would be nominated as a board. What was specific in the case of the attempt to empower boards in 2007 was that, while the ‘modernization agenda’ structured the behavior of the authors of change (MoE leadership, two rectors of the engineering universities), the HE governance institution introduced in early transition structured the behavior of the legitimate policy designers (people from academic senate). Since the legitimate policy designers are, according to the analytical framework, the actors who influence the final form of the adopted change, the authors of change did not succeed in promoting the changes leading to board empowerment in line with the ‘modernization agenda’, as they were not the ones influencing the final form of the adopted policy on university boards.

5. DISCUSSION, CONTRIBUTION AND SUGGESTIONS FOR FURTHER RESEARCH

This dissertation has analyzed the ways in which higher education reform policies evolved in three countries; Lithuania, Romania, and Slovakia, following the collapse of the communist regime. To do so, it has focused on three policy areas related to the ‘modernization agenda’ for HE governance: the move towards centralized top-down university management, the introduction of external stakeholders into university management, and the liberalization of public fund and immovable property use administered by universities. It has specifically looked at the use of international and foreign models in reforming these three areas. The international models were chosen because the literature indicates that the ‘modernization agenda’ is actively promoted by all the major international agencies in HE; the World Bank, OECD, UNESCO-CEPES and by the European Commission (Dakowska and Harmsen 2015). Foreign models taken from individual countries were also considered, because early on during my field work it turned out that in the majority of cases, the authors of change did not use internationally promoted models. They rather looked at foreign models in line with the ‘modernization agenda’.

Although the dissertation deals with three specific countries and policies, it provides more global insight into what happens when HE institution opens up to new ideas, and what influences the shape of change in such periods. It needs to be reminded that in this chapter, as elsewhere in this dissertation, when I use the term “institution” I am also referring to the specific rules forming it in line with the definition of the institution from the analytical framework by Olsen and March (2004).

This chapter discusses the insights, which have come about following the application of the analytical framework used in the research, combined with the empirical evidence collected during the field work, to illustrate the main conclusions and lessons. It also spells out contributions I believe the dissertation makes to new institutionalism and HE literature, as

well as new content relevant to policymakers and international experts and organizations. The chapter closes with suggestions for future research.

5.1 Policy changes as a result of legacies and logic of appropriateness

The developments identified in the three countries confirm the validity and usefulness of the analytical framework developed within the dissertation. The main proposition of this framework is that different translations at the national level of policies contained in the internationally promoted model of the ‘modernization agenda’ for HE governance can be explained through a combination of two theoretical approaches: historical and sociological institutionalism. This claim is strongly supported by empirical evidence from the three case studies. They show that the translation of the foreign and international models was influenced by institutional legacies rooted in the early transition, and by what was seen domestically as being appropriate models during the reform process. The interaction of these two factors is described below, within the main patterns of HE reforms identified in sections 5.1.1 through 5.1.6.

5.1.1 Institutional design without external models

After the fall of communism in each of the three countries, there was critical-juncture, which led to the introduction of a new HE governance institution. The evidence collected suggests that the main driving force behind the design of the new institution was the need to depart from the communist past. In so doing, they did not attempt to emulate international and foreign models, despite their being accessible during this period. In Slovakia, for example, the authors of the first post-communist HE law were familiar with the German and Austrian models of HE. In Lithuania, academics who had lived in the US prior to regime change participated in the preparation of the first law on HE following the collapse of the Soviet Union. In Romania, the World Bank and UNESCO experts were engaged in the diagnosing of problems in the education system and in proposing changes as of the early 1990s.

Yet reformers did not use ideas from abroad during the institution design phase in any of the policy areas studied in this dissertation. Instead, the way in which such policies were introduced reflected what authors of change in the early 1990s perceived to be appropriate. Clearly, what the reforms were attempting in taking this approach was to tackle what they saw as the greatest distortions of communism. The most important aspect they identified in the immediate communist past in all three countries was the direct intervention of the communist party in the operations of the university. To address this, they all rapidly introduced new rules of appropriateness that would ensure university autonomy and protect it from external actors (mainly the state and political parties) and defined how academics, instead of the party-state, should manage the universities. They did this in different ways, as discussed in detail in the case study Chapter 4. For the purpose of the general model, or speaking of patterns, what is important here is that the new rules of appropriateness did not use foreign or international models, but were addressing domestically what were seen as being key problems from the previous regime. This confirms Hood's (1998) claim, adopted in the analytical framework, that the reforms in the early transition were a reaction to the status quo.

5.1.2 A greater quantity of international recommendations does not lead to them being used more

Unlike the early transition, in the late 1990s and early 2000s international and foreign models were used in all three countries during reforms. In this regard, the empirical data suggest an interesting and counter-intuitive conclusion. More frequent presentations of internationally-promoted reforms did not lead to the greater use of international and foreign models. In comparison to the two other countries, Lithuania was exposed to the most international recommendations during the period from the end of the 1980s till 2012 (altogether seven). It did not significantly reform resource use and internal university organization, while with the 2009 Law, it went the furthest in introducing external stakeholders into different areas of university strategic management, including rector selection. Yet the external stakeholders

constituted less than half of the board members and their power remained quite limited, as in the other two countries. Also, the academic senate remained the main decision-making body in Lithuania. Slovakia, experienced the least amount of targeted international recommendations (only one OECD report in 1992, one World Bank assessment of the HE law in 2001 already designed, and one EUA report from 2008) and still it went furthest in applying the 'modernization agenda' in regard to public fund and property use, and also introduced some changes in the other two policy areas studied in this dissertation; centralization of university management, and the introduction of external stakeholders into university management.

The limited importance of the amount of international recommendations confirms the expectations of new institutionalism (Gornitzka 2013; Gornitzka and Maassen 2011; Radaelli 2005; Campbell 2004; Sporn 2003), which suggest that national level institutions play the key role in the process of translating international and foreign models. On the one hand, these institutions structure the behavior of the actors through what is appropriate. On the other hand, they push developments in line with legacies from the early transition.

5.1.3 Transition legacies influence later policy translation

After the fall of communism, all three countries went through the critical juncture, as defined by Collier and Collier (1991). According to these two authors, the critical juncture produces legacies that influence later policy choices. One type of legacy produced during the critical juncture (transition) in the three countries was path-dependency, meaning, according to Hall and Taylor (1996), the institutions set in place during transition pushed later historical developments along set paths. In accordance with the analytical framework, there were two kinds of path-dependency that arise from two dimensions of the appropriate institution designed during critical juncture. Firstly, the path-dependency of the appropriate policy model, which was shaping the behavior of the reform authors in terms of how universities and

the HE sector should be managed. Secondly, the path-dependency of who the legitimate policy designers were. The impact of both of these path-dependencies is discussed below.

5.1.3.1 Path-dependency of policy model

In regard to the path-dependency of the policy model, it was important in that it provided the prism through which authors of change perceived the ‘modernization agenda’. This influence was reflected in their proposals for change. In all three countries there were examples where the behavior of the actors was structured by legacies introduced during the transition. In the words of Olsen and March (2004), the institution preserved its legitimacy. Hence, the authors of change did not see any reason for changing it, even if they received international recommendations to do so, or if they saw that different policy models function in other countries.

In Slovakia what remained path-dependent was the belief that universities should be self-governed in a decentralized way, and that the central executive management of universities cannot be fully trusted. While the Slovak reformers in 2002 looked to the Czech Republic’s reforms, these path-dependencies contributed to there being only a partial translation of the Czech model. Slovak university boards that were supposed to supervise academics were defined in such a way that they actually became supervised by the academics, through the academic senates. This meant that the position of the boards was the reverse of that in the Czech model. The academic senate’s strong position in regard to the boards was reflected in its dominant influence on board membership and important board decisions. Distrust of central university management inherited from the early transition contributed to the introducing of detailed regulation of fund and property use by universities in the 2002 Law, in contrast to the greater authority granted central management in the Czech model. Finally, universities’ internal integration was also more limited than in the Czech HE law, and

faculties remained quite strong in Slovakia, due to the distrust of central university management.

The self-governance principle of university management introduced during early transition also influenced changes in Romania. In Romania the self-governance model of university management did not lose legitimacy for the 2011 Law authors. Hence their perspective of how universities should be managed remained path-dependent, influencing the use of foreign models (Danish, Austrian, UK, US). The desire to preserve university self-governance led to the academic senate maintaining its importance in areas which were in foreign model countries held by the university's executive bodies. This meant for example, that the academic senate remained the key actor in appointing the rector and the deans, and in the assessment of departmental performance.

Two examples from Romania and Lithuania show, in addition to the impact of the policy models' path-dependency on later policy choices, that when there were similar legacies in several countries, and these remained legitimate, then comparable policy decisions were made. One example is that neither Romanian nor Lithuanian law authors in the late 1990s and 2000s used recommendations from international experts on introducing new regulation in regard to university internal organization. In Romania, PHARE experts recommended decentralizing powers over budget to faculty level in 1999. All the reports for Lithuania by international experts produced between 1994 and 2007 advised introducing more centralized, top-down managed universities. The authors of change in both countries (in Romania, authors of the 1999 Amendment, in Lithuania the authors of the 2000 and 2009 Laws) did not follow the international recommendations, because involvement of the state in university internal organization through changing regulation in this area was not considered appropriate. In both countries, in line with the policy model introduced during early transition, it was up to the university to decide on its internal organization.

Another example of similar legacies in the two countries is related to public fund and property use. Both in Romania and in Lithuania the appropriate rule for public fund and public immovable property use introduced in the early 1990s was that the state was the owner and manager of these resources, and universities only administered them. This was the case also in Slovakia. Yet unlike in Slovakia, in Romania and Lithuania these appropriate rules did not lose their legitimacy in the following decades, and they impacted on later policy choices. Hence in Romania, the authors of the 1999 Amendment only partially translated the British model, and the use of public money remained quite regulated. The Romanian reformers did not take on board the underlying idea of the British model, which was that the outcomes of public funding use were more important than how exactly the funding was used.

A similar situation occurred in Lithuania, where most of the international reports from 1994 onwards recommended moving from micromanaging the funds to assessing the outcomes of funded activities. Some recommendations were used for the introduction of the block grant in the 2000 Law. Nevertheless, the key idea to move from the control of input use to the assessment of outcomes was not accepted, and public funds used by universities remained regulated. One of the reasons for the limited use of international recommendations in Romania and Lithuania was that the appropriate rules introduced in early transition for public fund use remained legitimate. For the same reason, the public immovable property used by universities remained, in both countries, owned by the state, and its use remained strictly regulated.

5.1.3.2 Path-dependency of legitimate policy designers

Another type of path-dependency that impacted on the introduction of the ‘modernization agenda’ was related to the identity of the legitimate policy designers influencing the final form of an adopted policy. If the actors’ legitimacy was path-dependent, then this meant that the same type of actors, or even the same actors, as those who defined the rules of appropriateness

during early transition remained legitimate policy designers. Hence it was appropriate that the approved policy had to be in line with the views of these actors. If the authors of change at a later point proposed a policy arising from the 'modernization agenda', and there was path-dependence in legitimate policy designers, then the 'modernization agenda' was used only to a limited extent or not at all. Examples supporting this finding can be found in all three countries.

In Romania, academics whose behavior was structured by the early transition HE governance institution remained legitimate policy designers in regard to the appropriate rules of universities' relations with wider society. This was the area that the authors of the 2011 Law tried to change, in line with the 'modernization agenda', meaning that they wanted to introduce external stakeholders into university strategic management. As a result of the path-dependency of academics as legitimate policy designers, the 2011 Law authors could not introduce university boards with strategic management powers, as in the UK and the US, both of which served as models. They were only able to propose a body with members from outside the university having the specific role of selecting the rector, and even this body was not compulsory for universities. The universities had an alternative option, to choose the new rector through general election by university academics and students.

In Lithuania two groups of legitimate policy designers blocked changes trying to introduce (in 2000) and empower (in 2009) boards with external stakeholders, in line with the 'modernization agenda'. The university rectors and the Lithuanian Constitutional Court remained the legitimate policy designers. The behavior of both remained structured by early transition appropriate rules, stipulating that the universities should be self-governed, without the influence of external stakeholders in university management. In the case of the 2000 Law it was the rectors who managed to prevent the introduction of boards with strategic managerial powers and a majority of external stakeholders. During the preparation of the 2009 Law, when

boards with external stakeholders gained strategic managerial powers, the rectors lost their legitimacy. Yet the Constitutional Court, which was the legitimate policy designer in the area of university relations with external stakeholders since the early 1990s, kept its position. The court ruled in 2011 that a body with a majority of external stakeholders, and with state representatives, as defined in the 2009 Law, could not manage the universities as this violated the constitutional provision of university autonomy. Since the court's ruling had to be incorporated into the 2009 Law, it contributed to the preservation of the university self-governance model.

In Slovakia, as in Romania and Lithuania, academics preserved their position of legitimate policy designers in regard to the relationship of the university with wider society. This was also the case during the preparation of the 2007 Amendment. At that time MoE leadership tried to shift some powers from academic senates to the boards in order to make the boards strategic managerial bodies, in line with the 'modernization agenda'. As in the other two countries, the academics' behavior was structured by the appropriate rules introduced in the early 1990s. According to these rules the university was a self-governed organization without external stakeholders having a say in its management. Since academics remained legitimate policy designers influencing the final form of the adopted change, and the path-dependent policy model structured their behavior, university boards were not empowered in 2007 in Slovakia.

It should be pointed out that in all three countries, academics remained legitimate policy designers in the area of introduction and/or empowerment of boards with external stakeholders. This observation is discussed in more detail in part 5.3.

5.1.4 Legitimacy loss as a way of departing from path-dependency

While the previous sections talk about factors inhibiting change, the present section concentrates on circumstances contributing to change. The data from the three countries

support Hall and Taylor's (1996) suggestion, included in the analytical framework, that an institution opens to change when its legitimacy decreases for the authors of change. When the legitimacy of an institution decreases, then the authors of change propose new appropriate rules increasing the legitimacy. In the three countries studied, the legitimacy of the institution introduced during the early transition declined most often in connection with generational change. In line with Oliver (1992), generational change meant that people had different backgrounds and cultural expectations from the previous generation of reformers. The new generation was, in some cases, open to new appropriate rules as result of on-the-job learning (DiMaggio and Powell 1991). In the three countries studied, on-the-job learning took the form of studying policy models from other countries, or using international recommendations. In other cases, the legitimacy of the institution in place could also decrease for the new generation of reformers, because in their view the early transition institution produced unintended or reverse consequences, or it was in friction with another institutional order. In other words, the new generation was likely to see weaknesses in the institution introduced in early transition, and to propose changes that should, in their view, increase this legitimacy.

In Romania the first example of generational change in HE governance can be seen in 1998, when the education minister, who came from university leadership, saw together with his team the rigid rules of financing introduced by the MoF in the early 1990s as inappropriate. The problem identified by the authors of change from the end of the 1990s was that this rigidity induced an inefficient use of public money that in turn contributed to the lack of university resources. Put differently, the rigid financing rules produced, in the view of the authors of change, an unintended consequence (Hood 1998) decreasing the legitimacy of the appropriate funding rules in place, and they had to be eliminated if the legitimacy of the HE governance institution was to increase

The second generational change in Romania took place in the early 2000s, when the authors of the 2011 Law were from a different generation than those from the end of the 1990s. Unlike them, the 2011 Law authors were not connected with the introduction of the self-governed bottom-up university management model from the early 1990s. In addition, during the preparation of the 2011 Law they were not part of university leadership. For these reasons they were not linked to the self-governance bottom-up university management model, and were open to seeing its weaknesses. The 2011 Law authors believed that the self-governance model, which was supposed to provide power to all members of the university in deciding about their leadership, led to power being concentrated in the hands of a limited group of people; clan members. The early transition university management model produced a reverse consequence (Hood 1998) which, in the view of the 2011 Law authors, decreased the legitimacy of the university management appropriate rules, hence they proposed changes to eliminate them.

The generational change in Romania evident during the preparation of the 2011 Law also meant that, unlike in 1998 (see section 5.1.3.1), the authors of change saw as appropriate that the state regulates the internal organization of the universities. Another difference was that the reformers from the 2000s perceived the definition of university internal organization as problematic. The policy model with strong and disconnected faculties lost legitimacy for the authors of the 2011 Law. This was mainly due to two reasons. Firstly, on-the-job learning (DiMaggio and Powell 1991) through studying other HE systems. Universities abroad had top-down managed interdisciplinary internal organization with professional management. Secondly, the appropriate rules of bottom-up organized self-governance of universities had lost legitimacy, because in the view of the 2011 Law authors they contributed to the creation of strong, local self-contained centers within universities. This problem can be conceptualized as an unintended consequence (Hood 1998). Since the 2011 Law authors viewed state

regulation of university internal organization as legitimate, they defined proposals to eliminate the unintended consequences and incorporate ideas from abroad, increasing the legitimacy of the appropriate rules in this area.

In Slovakia, as in Romania, there were two generational changes. The first major change was at the end of the 1990s, when the new MoE leadership came from different universities. These actors experienced on every day basis, as academics and managers, the HE governance institution introduced during early transition as being characterized by limited economic autonomy. In their view, this institutional set-up made it very difficult to manage the universities efficiently, because they could not use resources as they needed. In other words, the lack of possibilities to manage resources efficiently was undermining the goal of university organizational autonomy, and can also be conceptualized as an unintended consequence of the early transition HE governance institution (Hood 1998). Over time, this decreased the legitimacy of the appropriate rules for funding and property. To conclude, unlike in the early 1990s when university organizational autonomy was the leitmotif of change, the new generation of reform authors perceived the efficient functioning of universities to be a cornerstone of an HE governance institution, mainly expressed through the efficient use of funding and property.

Since the 2002 Law authors saw university efficiency as important, they were also sensitive to institutional friction (Lieberman 2002) between the HE governance institution and the economic institution in Slovakia. While within the former institution the state was owner and manager of (universities') funds and property, according to the latter, public organizations owned their resources, were able to use them in the way they needed, and were accountable to the state for the outcomes of their activities. This friction further decreased the legitimacy of the appropriate rules for public fund and property use by the universities introduced during the early transition. The 2002 Law aimed to eliminate the unintended consequence and the

institutional friction, in order to increase the legitimacy of the appropriate rules for funding and property.

The 2007 Amendment to the 2002 HE Law was the result of the second generational change in Slovakia. At that time the reform leaders came from engineering universities, and perceived as appropriate that universities should have professional central management in order to be more responsive to the needs of business. This was based on their experience, as the engineering universities were front-runners in cooperating with business. The self-governance model of university management introduced in early transition, which was built on the principle of democratic representation of the university's academic community, led in the view of the 2007 Amendment authors, to universities being responsive to the needs of their members represented in academic senates, not to those of the university as a whole, and to those of society and the economy. The universities were, according to the 2007 Amendment authors' perception, not run professionally, and they were self-contained. These unintended consequences (Hood 1998) decreased the legitimacy of the university self-governance management model in their view, and contributed to their proposals for change.

In Lithuania there was one important generational change in regard to the decrease of legitimacy of the appropriate rules⁷⁵. At the end of the 1990s the new generation of reformers was made up of bureaucrats from the Department of Science and Studies, who prepared the 2000 Law. They had a different perception of what was appropriate from the academics who designed the HE governance institution in the early 1990s. The bureaucrats saw as appropriate that universities should be open to the needs of society, while during the early transition it was deemed appropriate that the university should be autonomous from the outside world. Put

⁷⁵ Generational change was also apparent in the preparation of the 2009 Law, yet this was only important in regard to the shape of the change, and not so much in regard to opening the appropriate rules to change, as this had already happened at the end of the 1990s.

differently, the early transition appropriate rules for university management had lost legitimacy for them. This happened for two reasons. Firstly, it was due to the on-the-job learning (DiMaggio and Powell 1991) of the bureaucrats, acquired through the PHARE project, which provided them with information on university management models characterizing university accountability as important. Secondly, the self-governing management model contributed to the rectors not being able to deliver necessary organizational reform, because their electorate (academics) would have been against it. Hence the model produced unintended consequence (Hood 1998), which decreased the legitimacy of the management model in place. Consequently, the 2000 Law authors proposed changes to increase the legitimacy of university management.

What the data above show, besides the importance of generational change in opening the appropriate rules and institution to change, is that generational change in the 2000s led to the questioning of the self-governance model introduced during early transition in all three countries. In all three cases this was partly stimulated by unintended (Slovakia, Lithuania) or reverse (Romania) consequences of the self-governance models introduced in the early transition.

5.1.5 Foreign and international models as an answer to the problems from the past

The previous section (5.1.4) indicated that the reforms from the 2000s were, in a number of cases, triggered by the need to tackle the problems created by the early transition institution. This section provides examples showing how the need to deal with the problems from the past shaped the use of foreign and international models, and contributed to the formulation of new policies. The evidence provided here demonstrates that the authors of change chose only those parts of the foreign and international models that they considered useful in tackling the

negative legacies. This observation is best demonstrated in the examples of Romania and Lithuania⁷⁶.

In Romania, the foreign models were used selectively in dealing with legacies from the past, both in 1998 when the funding was changed, as well as in 2011 when the changes to university management and internal organization were proposed. In 1998 the authors of change from the MoE perceived as problematic the situation that rigid financing rules were inhibiting the efficient use of resources. They turned to the British model to increase the efficiency of public funding use, so that the university would have more money for the activities it perceived as necessary. However, they did not adopt the British approach of looking at outcomes to make financial decisions, remaining committed to controlling the use of money up front.

The authors of the 2011 Law in Romania used parts of foreign models to address the unintended consequence (universities divided into internal power centers) of the bottom-up self-governance management introduced during transition. The internal power centers were supposed to be dismantled by introducing new subunits (interdisciplinary departments) which replaced cathedrae, and to some extent faculties, and by shifting the management lines from bottom-up to top-down. The idea of interdisciplinary departments was based on the US model, and the top-down appointment and management lines on the Austrian and Danish models. However, as already discussed in section 5.1.3.1, in Romania, unlike in the model countries, the self-governance principle remained quite strong. The Romanian authors of change did not consider it expedient to abandon this principle. What was important was to use those parts of the foreign models which would lead to dismantling the power centers within universities.

⁷⁶ In Slovakia the foreign model (from the Czech Republic) was also used selectively, not as a response to problems from the past but rather to fit the appropriate rules structuring the behavior of the 2002 Law authors. For details see sections 5.1.6.

In Lithuania the authors of the 2009 Law used selectively the English and US external board models to deal with the unintended consequences of the self-governance model of university management that resulted in rectors unable to deliver difficult but necessary reforms of university organization and in academic oligarchy not responsive to the society's needs ruling universities. Both of these unintended consequences could be dealt with through the boards containing the external stakeholders who would select the university rector. Rector selection with the participation of external stakeholders, as in the US and England, was to have cut ties between the rector and the academics, allowing the rector to carry through difficult organizational reforms whilst also leading to the dismantling of academic oligarchy, which existed because a limited group of academics was electing leaders from among themselves. Simultaneously, it was hoped that the rector being accountable to a board with external stakeholders would make university leadership more responsive to society. However, the Lithuanian authors of the 2009 Law did not design boards with a majority of external stakeholders, which was an important characteristic of the boards in the two model countries. Also, the role of the education minister in nominating the board members diminished, and was hence less similar to the US model, where the representative of the state – the governor – chooses the board members in public universities. This divergence is partly attributable to the need for the Lithuanian boards to be designed in such a way as to address those problems that the reforms perceived as key. In addition, the behavior of legitimate policy designers (MPs) was still structured by the path-dependent self-governing model of university management, which required the academics to have an important role in governing the university.

5.1.6 Change in one policy area as support for the introduction of a new policy in another area

The final observation from the data goes beyond the analytical framework conceptualizations of this dissertation. The data suggests that the use of foreign and international models for one policy area was, in some instances, influenced by another policy area. The change in one

policy area was subsequently designed in such a way that it would support the introduction of change in another policy area.

In Romania, MoE leaders introduced in 1998 the option for universities to have an advisory body with external stakeholders. However, the primary reason for doing so was not to make universities more open and accountable to the outside world, as would be the case with the ‘modernization agenda’. As the interviews revealed, it was stimulated more by new appropriate rules for university financing introduced at the end of the 1990s, according to which the university became responsible for acquiring a part of its resources. The advisory body represented one tool to acquire non-budgetary funding.

The situation was similar in Slovakia, when the authors of the 2002 Law introduced university boards with external stakeholders and centralized to some extent university internal organization and management. Both these policies were proposed in such a way as to support changes in funding and property use by universities. The boards were translated so that they would supervise the use of transferred property and larger financial transactions. Their independence from university academics was rather limited, unlike in the case of the model law from the Czech Republic. The reason was that the main role of the boards was not to introduce independent external stakeholders into university strategic management, as was the case in the ‘modernization agenda’. The key aim was to support the liberalization of property and money use by the universities, so that universities would manage these resources efficiently and responsibly. Similarly, university centralization was only partial. It was introduced to the extent that it would make it technically easier to administer transferred property and the liberalized use of public financial resources. However, the faculties remained strong in most areas of their operation, and hence universities remained internally divided. In short, both the policies of boards and university centralization were designed to support the introduction of new appropriate rules in regard to funding and property. According to these

rules, the university should be an efficient user of the resources, and an economically free and responsible organization.

Lithuania provides an interesting example of policy change in one area being used to support another policy area, although not in the practical sense as evident both in Romania (involving external stakeholders in universities in order to gain resources from them) and in Slovakia (centralizing university management so that the property transferred from the state has one owner, introducing boards to supervise economically free universities). In Lithuania the 2009 Law authors used one policy change to motivate academics to accept other policy changes. This was the case with liberalization of property and funding use, especially funding and property the universities gained. More rights over resources were supposed to make the university rectors more inclined to accept changes in other areas, especially the empowering of boards and the introduction of student funding through vouchers, which would hurt smaller universities with less students.

5.2. Contribution

The findings presented in this dissertation offer two types of contribution. Firstly, a contribution to the literature, specifically to the analytical frameworks of historical and sociological institutionalism, as well as to the literature on HE reform. Secondly, insights for policymaking process, both for national governments and for supranational and international agencies.

5.2.1 Contribution to theory

The analysis of the evidence coming from the three countries studied supports the promotion of an eclectic approach to analytical frameworks, as advocated by scholars such as Hall (2010), claiming that institutional change cannot be fully understood through employing a single analytical framework. In line with Dobbins and Knill (2009), the data analyzed support the need for a specific combination of theoretical arguments from both historical and

sociological institutionalism in order to understand institutional change. In addition to confirming the need for a more eclectic approach to institutional change, the evidence presented points also to a need to fine-tune some of the concepts of historical and sociological institutionalism. These insights are discussed in detail in the present section.

The data analysis reveals that historical institutionalism provides important insights into the role of institutional legacies in policy and institutional change. Indeed, concepts such as critical juncture explaining the institution design stage (Collier and Collier 1991); path-dependency analyzing why and how historical developments evolve along a set path (Hall and Taylor 1996); and unintended and reverse consequences, along with institutional frictions creating problems that stimulate and shape the change (Lieberman 2002; Hood 1998) proved to be extremely relevant in understanding the role of the past in the translation of international and foreign models. Yet the evidence presented calls for a fine-tuning of some of these concepts.

Firstly, the previous sections suggest a modification of Collier and Collier's (1991) concept of critical juncture. In their view, which is echoed by Bruszt and Stark (1998) in the context of post-communist countries, the critical juncture produces different legacies across units of analysis. Nevertheless, what the data analyzed (summarized in sections 5.1.3.1 and 5.1.3.2) reveal is that critical junctures in different units of analysis (i.e. different countries) can produce similar legacies which cause similar choices during later reforms (see for example the lack of reform in funding and property use in Lithuania and Romania).

Secondly, there is a need to reconsider the proposition of Collier and Collier (1991) in regard to the potential impact of the institutionalization of possible future opposition forces which may have occurred during the critical juncture. These authors would expect that if the academics were to be institutionalized during critical juncture as part of a political party's

system, then they would be less likely to be mobilized than if they were not. That is they would be more inclined to support the system promoted by the establishment they belong to. Nonetheless, this was not an important factor in the three countries studied. What was more important, as indicated in section 5.1.3.2, was whether the academics defending the early transition institution were still perceived during later reforms as legitimate policy designers with influence over the final shape of the policy in question. Neither of these findings discards either the critical juncture concept or that of historical institutionalism. The first two findings instead fine-tune the critical juncture concept, based on insights from the logic of appropriateness concept.

Thirdly, the data presented question the importance of the positive feedback mechanism, another historical institutionalism concept, in reinforcing the stability of an institution introduced during the critical juncture (Collier and Collier 1991; Skocpol and Pierson 2002). This concept did not seem to help explain why certain appropriate rules organized into an institution became more open to change, while others were more path-dependent or stable. For example, in Lithuania appropriate rules for public property use by universities, as well as the self-governance model of university management, were reinforced in the 1990s and early 2000s by functional positive feedback mechanisms (Thelen 1999). Yet, the stability of these appropriate rules turned out differently during the 2009 Law preparation. The appropriate rules for property use remained quite stable, while the self-governance principle was questioned, leading to the empowerment of the external stakeholders. Sociological institutionalism helps to explain stability or openness to change by pointing out that they depend on what appropriate rules structure the actors' behavior, and the identity of the appropriate policy designers influencing the final form of the policy. As discussed in detail in sections 5.1.3 and 5.1.4, the institution is less stable if it loses legitimacy for the authors of the change, and if the authors of change are also legitimate policy designers. In other words,

the institution's stability depends more on the appropriate rules in the present, and less on mechanisms that reinforced it in the past.

Another claim from historical institutionalism which is not upheld by the data analyzed, is the idea that the more emphasis is placed on an extreme solution to a problem, the more likely it is that unintended or reverse consequences will ensue (Hood 1998; Bohle and Greskovits 2012). The evidence shows that whether a certain institutional solution produces unintended or reverse consequences depends on what is perceived as appropriate. This means that first a problem and a solution have to be identified, and this process is based on what the actors see as appropriate, which is in turn related to the institution shaping their behavior. The problem of clans running universities in Romania demonstrates this well. Clans resulting from bottom-up, self-governed universities existed in Romanian universities as early as the end of 1990s, as reported by Miroiu (1998). Yet they were not identified by reform authors from the end of the 1990s as a problem requiring a solution. This only happened in the early 2000s, when there was generational change among HE reformers, and the behavior of a new generation was structured by different appropriate rules from that of reformers from the end of the 1990s. Hence, in the 2000s the clans were identified as one of the biggest problems in Romanian HE, in need of a radical solution. Once again, we can suggest that the explanatory power of the historical institutionalism concept can be enhanced combining it with the logic of appropriateness.

The literature points to two further weaknesses in historical institutionalism, and they were confirmed by the evidence analyzed. Firstly, historical institutionalism has a problem in explaining changes not motivated by a redistribution of power (Mahoney and Thelen 2010). The data provided a number of illustrations of this shortcoming. For example, when the authors of the 2002 Law in Slovakia initiated the liberalization of property and funding use by the universities, this change was not about a shift of power from the Ministry of Finance

to the authors of change (MoE), as historical institutionalism would expect, but from the MoF to the universities. Similarly, the MoE's introduction of boards in all three countries led not to the empowering of the MoE authors of change, but rather to that of external stakeholders and rectors, at the expense of academics, in the self-governing bodies. Sociological institutionalism, specifically the concept of the logic of appropriateness, provides a useful explanation for actor motivation reaching beyond an attempt to increase one's power. According to this school of thought, actor behavior is driven by what is seen as appropriate, and it can have no utility or it can even go against what would be viewed as expedient for the initiators of change (Hall and Taylor 1996).

Another weakness often mentioned in regard to historical institutionalism is that it traditionally concentrates on understanding the persistence of a particular institutional pattern, rather than on explaining change (Mahoney and Thelen 2010). The data analyzed in this dissertation however, show examples of change through cases of path divergence. Logic of appropriateness is useful in explaining the divergence from the set path through change of what is viewed as appropriate. As the three cases show, this can happen as a result of socialization, education, and on-the-job learning (DiMaggio and Powell 1991), which can lead to the new institution structuring the behavior of actors. In other words, the existence of the weakness noted in the literature is supported by my findings, which also indicate that the sociological institutionalism is useful in tackling this drawback.

What the data further reveal is that actors became more open to new rules of appropriateness adopted through socialization, education, or on-the-job learning as a result of generational change, as defined by Oliver (1992); actors are more open, because they come with different backgrounds and cultural expectations than the previous generation. What the evidence additionally indicates is that the new generation of actors is also more open to seeing the problems of the institution in place, and to new solutions to these problems. Because it is

not connected with the design of the respective institution, it does not have a need to defend it. In short, generational change proves to be a useful complement to the concept of logic of appropriateness, as it further clarifies how actors can become more open to adopting different appropriate rules, which then in turn open them up to new types of problem and solution, and enable them to contribute to policy and institutional change.

The final point is that the sociological institutionalism needs to be also complemented by insights from the historical institutionalism in order to be able to explain fully the policy translation. The reason is that the sociological institutionalism fails to take into account the importance of the past in regard to the resistance to change, and the shape that change takes. Sociological institutionalism could not explain why legitimacy cannot be enhanced, even if the actors perceive it as appropriate. This is where historical institutionalism provides important insights, stressing the role of legacies which to some extent bind the actors' actions.

5.2.2 Contribution to literature on higher education

The literature on HE reforms in post-communist countries stresses the impact of legacies from pre-communist times and from communism as shaping the policy choices made after the fall of communism (Cerych 2002; Dobbins and Knill 2009; Leisyte 2014). However, the data analyzed in this dissertation point to different impacts of the legacies from communism than the ones identified in the literature mentioned. What seems to be important in the three countries studied is that, especially during the critical juncture, new HE governance institutions were not built on legacies from communism, but were influenced by a reaction to what were perceived as the strongest negative impacts of the communist regime (mainly, the need to abolish direct management by the state through the communist party). This is in line with Hood's (1998) claim, that every reform is a reaction to the status quo. As Offe (1996) would expect, how exactly this reaction to problems from communism materialized in a new policy depended on what appropriate rules structured the behavior of the authors of change.

Another important point that the literature on HE reforms omits is the significance for the later reforms of the HE governance institution design process during the critical juncture. The evidence in this dissertation suggests that the HE governance institution introduced during early transition played a key role in the translation of foreign and international models into HE governance 10 or more years later. Two reasons can be proposed for this. On the one hand, the path-dependencies of the appropriate HE governance model and of legitimate policy designers were rooted in the institution designed during the early 1990s. The path-dependencies of the early transition appropriate policy model provided lens through which the reformers assessed the foreign and international models during their reforms at the end of the 1990s and in the early 2000s. The path-dependencies of legitimate policy designers led to the preservation of influence over later changes from actors whose behavior was structured by the appropriate rules introduced in the early 1990s. On the other hand, legacies from the early transition period became sources of later problems, in the form of unintended and reverse consequences, and institutional frictions. Hence, reforms drawing on foreign and international models used them to address the negative legacies of the early transition HE governance institution. The need to react to the problems created by the early transition HE governance institution, in addition to the path-dependencies, influenced the shape of reforms introducing the ‘modernization agenda’ in the three countries studied.

5.2.3 Contribution to policymaking process

While the previous section was theoretical, the aim of this section is to provide practical recommendations for actors interested in policy change, based on data. The insights are aimed at policymakers at national level, as well as international experts and supranational agencies involved in policy advising. This section opens with the possible lessons for the former group of actors. It closes with suggestions for international organizations and experts.

The first lesson for national level policymakers is mainly relevant for those authors of change who participate in institutional design process following major change, as was the case in post-communist countries after the regime shift. What one can learn from the post-communist countries studied in this dissertation is that it is important what kind of actor is institutionalized as a legitimate policy designer during the policy design stage. If it is an actor whose legitimacy in the policymaking process cannot be changed easily, it is quite likely that for a number of years or even decades following the institution design phase, it will be difficult to introduce changes contradicting what this actor perceives as appropriate. The most pertinent example of this is the Constitutional Court in Lithuania, which was institutionalized in 1992 as the legitimate policy designer in regard to HE through the enacting of university autonomy into the Lithuanian constitution, and through the exercising of this right. Since the position of the Constitutional Court is based on the constitution, it is very difficult to change. The court has the final say on policies related to all three policy areas studied, and it preserves the appropriate rules introduced during the transition. When such a rigid policymaking process occurs, it ensures that an actor who has preserved appropriate rules from the institutional design phase has the final say, and it is difficult for policymakers to change the system and adapt it to new appropriate rules. Therefore during the institutional design phase it is important to keep in mind that the policy design process should be defined in such a way that it will not make policy changes impossible. Otherwise it may be difficult later to tackle challenges which are unknown during the institutional design period.

Related to this point, another observation may be useful when reformers have to deal with policymaking process designed years earlier. When policymakers want to introduce new policy, as the data suggest, it is crucial to concentrate not only on the best design of that policy, for example how best to define university boards or internal organization. The policymakers should also devote equal effort to understanding and reforming the policymaking process in

such a way as to facilitate possible modification of the policy they propose. Most importantly, they need to identify the legitimate policy designers whose opinions have to be respected, and what these policy designers perceive as appropriate. If that differs from what the reformers perceive as appropriate, then the reformers need to address what the policy designers perceive as appropriate and/or their influence on the final form of the policy. In the case of the first option, the reformers need to engage in debate with legitimate policy designers, and explain the necessity of changes. What can also be useful is to provide the legitimate policy designers with some form of compensation for accepting the reform. This was the strategy in Lithuania for example, where accepting that the introduction of vouchers and stronger boards was compensated by the greater economic freedom of universities. The second strategy is to try to change who the legitimate policy designers are by taking over their role and/or delegitimizing their position and influence over the adopted change. This is what happened in Lithuania in regard to the 2009 Law, when the rectors were delegitimized as policy designers, and MoE representatives became much more active in all the stages of the new Law's approval. By contrast, in Slovakia during the preparation of the 2007 Amendment, the reform authors did not deal at all with the policymaking process, and the changes they proposed in regard to the university boards were not, in fact, adopted. Similarly, in Romania during the preparation of the 2011 Law, the key reform authors had no influence on the policy adoption process, and were thus unable to introduce boards with strategic management powers.

The above data provide one more insight in regard to the actors involved in the policymaking process. What the data demonstrate is that involving a new generation of reformers can lead to greater openness in seeing problems in the functioning of the institution in place, and in envisioning new types of solutions to the problems. As Oliver (1992) argues, this is because a new generation of reformers has different expectations and backgrounds from the previous one. In addition, the evidence in the three cases suggests that the new generation

is not tied to the earlier reforms, and hence does not feel the need to defend them, instead being able to look at them critically. Those actors interested in designing a change can engage a new generation of experts or policymakers that may help to shed light on problems produced by the institution in place, and can also be open to new types of solutions which were previously not perceived as appropriate. This observation can be made about all three countries studied.

To conclude this section, two points arising from the data are relevant to international organizations and experts involved in providing policy recommendations to countries undergoing HE reform. Firstly, it is crucial for international experts to understand what local reformers in the respective country perceive to be problems of the system in place, and what they view as appropriate models of university functioning. If this is not respected then there is little chance that the international recommendations will be used. This is well supported by the examples from Lithuania and Romania, where they received suggestions from international experts on changes to university internal organization, and to fund and immovable property use. The Romanian and Lithuanian reformers did not use these ideas because they contradicted what the reformers perceived as appropriate. In the case of internal organization⁷⁷, the state was not perceived as the legitimate actor to interfere into the defining of university internal organization. In regard to fund and property use, reform designers did not see it as appropriate to change the role of the state from owner and manager of resources, to that of supervisor of policy outcomes, as suggested by the international experts. Based on this evidence, the role of international recommendations seems to be more in helping to fine-tune what reformers want to do even prior to international intervention, than in trying to persuade them about ideas they did not consider as appropriate.

⁷⁷ In Romania this is relevant for the 1999 Amendment only.

Secondly, even if the international recommendations and the views of what is appropriate matches those of the national reformers, there is one more issue that the international experts should keep in mind. That is whether the reform initiators are also legitimate policy designers with influence over the final form of the policy. If the opponents of the ideas advised by the internationals are the legitimate policy designers, then the recommendations are likely to have only a very limited impact, as the introduction of external boards in Romania and Lithuania shows. Therefore it is worth considering the efforts made to provide such suggestions, and to target areas where reformers can also influence adoption of the changes.

5.3 Suggestions for further research

The present dissertation opens up several avenues for further research. Firstly, it would be important to verify the validity of the analytical framework used here for a larger universe of cases. Namely, the issue of whether the combination of historical and sociological institutionalism concepts (especially the logic of appropriateness) also has explanatory power in other areas of HE reform should be assessed (for example quality assurance); in other policy sectors (for example health care) and in other post-communist countries, as well as countries outside the post-communist region.

Specific attention should be devoted to verifying the proposed fine-tuning of the analytical frameworks. Hence it would also be worth exploring the validity of the claim that the critical juncture in different units of analysis can produce legacies with a similar impact on later reforms. In regard to critical juncture, it would also be desirable to explore what kind of institutionalization of actors has importance for later reforms. Whether the cases analyzed here represent an exception, or whether the critical juncture concept also needs to be fine-tuned in this regard is another issue worth addressing. Furthermore, it would be useful to confirm whether the positive feedback mechanism has indeed weaker explanatory power

regarding an institution's stability than the logic of appropriateness, as suggested in this dissertation. Similarly, it would be interesting to explore whether the logic of appropriateness has greater explanatory power in regard to the importance of the unintended and reverse consequences than an explanation based on the idea of extreme solutions delivered during the institution design phase. Lastly, it would be worth further examining the validity of generational change importance as regards decreasing an institution's legitimacy, thereby opening the institution to change. The research in all these areas can help the institutionalism approaches to enhance their capacity to explain institutional change.

In regard to HE governance reform it would be interesting to further scrutinize one finding common to all three countries. In each case the principle of university self-governance was questioned in the early 2000s, but was not changed substantially. In addition, there was persistence of legitimacy regarding policy designers from early transition (e.g. academics, also the Constitutional Court in Lithuania), who perceived self-governance mode of management as appropriate. In all three countries these legitimate policy designers were successful in blocking the introduction and/or strengthening of university boards. Hence it would be important to analyze whether this is also the case in other post-communist countries, and what the reasons for the persistence of self-governance and lack of external stakeholders in university strategic management are. One of the reasons could be that university autonomy was the cornerstone of HE governance institutions designed in post-communist countries following regime change. Hence it has the greatest persistence of all the policies introduced in the early 1990s, and the views of those defending it are respected. This would be in line with Olsen and March's (2004) claim that change in constitutive or basic rules is very slow, and requires considerable support. However, this claim was not a focus of the present study, and needs to be properly researched. The proper research of this policy's persistence could be

beneficial, because it could lead to a definition of more general characteristics of those appropriate rules that can prove more persistent than others when reforming an institution.

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ANNEXES

Annex 1 List of Lithuanian interviewees⁷⁸

Interviews were delivered between 30 May and 23 June 2011

Interviewee	Change in which the actor was involved			
	1988 - 1991	1991	2000 Law and its Amendments	2009 Law and its 2012 Amendment
Mantas Adomenas , responsible for HE reform leading to the 2009 Law on behalf of Christian Democratic party (Homeland Union), member of Parliament (2018 – 2012)				X
Juozas Antanavicius , president of the Rectors' Conference (1996 – 2003), rector of Lithuanian Academy of Music and Theater (1994 – 2005)			X	
Viktoras Bachmetjevas , member of faculty at Vytautas Magnus University since 2008				X
Arvydas Barila , chair of the group for financing of the PHARE project Higher Education Reform Programme in Lithuania (HERIL), implemented 1996 – 2000			X	
Gintautas Brazionas , director of the Vilnius College since 2008			X	X
Eugenijus Butkus , chair of the Research Council of Lithuania (2003 – 2013)				X
Giedre Ciuzaitė , journalist from LRT (public service radio)				X
Vytautas Daujotis , professor at Vilnius University and expert on HE.			X	X

⁷⁸ In each list of interviewees, the interviewees are in different order than in the text. This is so, because the interviews were anonymous so the aim is not to reveal the concrete opinions of individual interviewees.

	1988 - 1991	1991	2000 Law & its amend ments	2009 Law & 2012 amend ment
Romualdas Ginevicius , chair of the Lithuanian Rectors' Conference.				X
Vladas Guoga , representative of Scientists Society that initiated the 1991 Law, executive director of the staff of the Research Council.		X	X	
Mindaugas Jackevicius , Delfi internet portal, reported on HE since 2006.				X
Zibartas Juozas Jackunas , chair of the Committee on Education, Science and Culture of the parliament (1996 – 2000); Lithuanian Homeland Union (conservative party).			X	
Margarita Jakstoniene , head of Property Management and Public Procurement Division at Ministry of Education and Science.				X
Aurimas Juozaitis , vice-minister of Education and Culture (1990 – 1992).	X	X		
Vytautas Kaminskas , rector of Vytautas Magnus University (1996 - 2006); vice-president of Lithuanian Rectors' Conference (1997 – 2003), president of the Rectors' Conference (2003 – 2006).			X	
Danguole Kizniene , responsible in British Council in Lithuania for activities related to HE during preparation of the 2009 Law				X
Kestutis Krisciunas , rector of University of Technology (1992 – 2000); secretary of the Rectors' Conference since 2003.			X	X
Egidijus Kuris , assistant to the President of the Constitutional Court (1993 – 1997), justice of the Constitutional Court (since 1999), president of the Constitutional Court (2002 – 2008).	X		X	

	1988 - 1991	1991	2000 Law & amend ments	2009 Law & 2012 amend ment
Edgaras Leichteris , Director of Knowledge Economy Forum since 2005.				X
Kestutis Makariunas , member of Science Council from 1994 and chair of the Science Council (1999 – 2003).			X	
Ruta Marcinkeviciene , vice-chair of the Science Council of Lithuania (since 2008)				X
Edita Maslauskaite , since 2006 vice-president of the Lithuanian Free Market Institute.				X
Algirdas Monkevicius , minister of education (2000 – 2004), (June - December 2008), during his time as minister the World Bank report with recommendation for HE reform from 2003 was delivered as well as several amendments to the 2000 Law.			X	
Natalija Mazeikiene , vice-rector of the Vytautas Magnus University since 2008.				X
Nerijus Pacesa , rector of private university ISM since 2008.				X
Vaida Paltanaviciute , division of Financing Research and Higher Education at Ministry of Education and Science.				X
Aleksas Pikturna , vice-rector for administration of Vilnius University.			X	X
Kornelijus Platelis , minister of education (1998 – 2000); Lithuanian Homeland Union (conservative party).			X	
Nerija Putinaite , vice-minister of education (2008 – 2012); advisor to the Lithuanian president Valdas Adamkus (2004 – 2008).				X

	1988 - 1991	1991	2000 Law & amend ments	2009 Law & 2012 amend ment
Vytautas Sileikis , head of the Kaunas Chambers of Commerce, Industries and Crafts Association (since 1992).			X	
Rimantas Slizys , head of the Department of Science and Studies (1990 – 1991), chair of Research Council (1991 – 1993), member of PHARE committee in 1998, director of Science and Studies Department of the education ministry and vice-minister of this Ministry (1998 – 1999).	X	X	X	
Valentinas Stundys , chair of the Committee on Education, Science and Culture of the parliament (2008 – 2012), Christian Democratic Party (Homeland Union).				X
Elena Tervidyte , journalist, Dialogues.			X	X
Irena Vaisvilaite , chief advisor to the Lithuania President Adamkus (2003 – 2007).				X
Rimantas Vaitkus , head of the Division of Higher Education at ministry of education (1997 - 2001), vice-minister of education (2001 – 2004); vice-rector at Vilnius University (2008 – 2013); from 2013 vice-minister of education for Social Democratic Party.			X	X
Giedrius Viliunas , advisor to the minister of education (2006), secretary for higher education at ministry of education (2007 – 2009), vice-rector of at Mykolas Romeris University since 2009.				X
Albertas Zalys , worked at Ministry of Education on HE since 1990.			X	X
Rimantas Zelvyys , vice-rector of Vilnius Pedagogical University (2003 – 2013), expert on HE (2 interviews conducted).	X	X	X	X

Martynas Zilionis , assistant of Vitas Matuzas, the chair of the parliament's Committee on Finance and Budget (2008 – 2012).				X
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Annex 2 List of Romanian interviewees

Interviews were delivered between 31 October and 16 December 2011

Interviewee	Change in which the actor was involved			
	1989 – 1995	1995 Law & 1997 Teachers' Statute	1998 – 1999 changes	2011 Law
Paul Agachi , vice-rector (2001 – 2007) and president (2007 – 2011) at Babes Bolyai University in Cluj.				X
Adrian Albu , director of Finance and Accountancy Department of University of Bucharest in 2011.				X
Anton Anton , Minister of Education (October – December 2008), member of National Liberal Party, vice-rector of Technical University of Civil Engineering Bucharest (2008 – 2012).				X
Catalin Baba , Vice-Minister of Education (2009 – 2012).				X
Cezar Birzea , professor, head of the Institute for Educational Sciences since 1991.	X	X	X	X
Razvan C. Bobulescu , honorary president of the National Trade Union Federation; active in HE Teachers Trade Unions since 1992.	X	X	X	X
Alexandru Brasoveanu , Legal Department of Babes Bolyai University in Cluj since 2006.				X
Constantin Bratianu , ministry of education: advisor to the minister (1994), PHARE expert (1996 – 1997), general director at the Higher Education Directorate (1998 – 2000).		X	X	
Ovidiu Ciocan , vice-president of student organization of University of Timisoara, president of umbrella organization of all student		X		

organizations in Timisoara, vice-president of Student Liga of Romania (1995 – 1996).				
	1989 – 1995	1995 Law & 1997 Teachers' Statute	1998 – 1999 changes	2011 Law
Emil Constantinescu , rector of University of Bucharest and chair of Romanian Rectors' conference (1992 - 1996), president of Romania (1996 – 2000).	X	X		
Ion Ciuca , working at Ministry of Education since 1997.			X	X
Carmen Constantin , journalist covering education since 1990.	X	X	X	X
Haj Mihai Cezar , president of National Alliance of Student Organizations in Romania (2008 – 2010).				X
Radu Mircea Damian , head of National Council for Financing (2003 - 2011) and vice chair of this Council (2000 - 2003).			X	X
Daniel David , Vice-president of the Presidential Committee preparing the 2011 Law.				X
Mihai Dragos , secretary of National Alliance of Student Organizations in Romania (2010 – 2011).				X
Cristian-Sorin Dumitrescu , member of parliament 2008 – 2012 - chair of the Committee for Education, Science, Youth, and Sport of Chamber of Deputies, Social democratic party.				X
Elvira Gheorghita , journalist in private press agency Mediafax since 1996.		X	X	X

	1989 – 1995	1995 Law & 1997 Teacher s’ Statute	1998 – 1999 changes	2011 Law
Tiberiu Giuca , president of the student umbrella organization in Timisoara (1995 – 1996).		X		
Dorina Crisan Habean , director general of the Economic and Administrative Directorate of Academy of Economic Studies.			X	X
Gabriel Ivan , British Council in Bucharest since 2001.				X
Mihai Korka (two interviews), expert on HE, worked on 1999 Amendment to the 1995 Law, in 2011 participated at HE Functional review delivered by World Bank.			X	X
Iosif Koto , member of Parliament for UDMR (The Democratic Alliance of Hungarians in Romania), vice-chair of parliament’s Committee for Education, Science, Youth, and Sport of Chamber of Deputies (2008 – 2012).				X
Gheorge Lazea , rector of Technical University in Cluj (1996 – 2000), active during preparation and adoption of the 1997 Teachers’ Statute and 1999 Amendment to the 1995 Law.		X	X	
Liviu Maior , minister of education (1992 – 1996), senator for Social Democratic Party (2000 – 2004).	X	X		
Andrei Marga , Minister of Education (1997 - 2000), rector of Babes Bolyai University in Cluj (1993 – 2004, 2008 – 2012), president of the academic council of Babes Bolyai University (2004 – 2008).	X	X	X	X
Liviu Marghitas , head of Control of the Ministry of Education - monitoring activities			X	X

related to the educational process (1997 – 2000); rector of University of Agriculture Sciences and Veterinary Medicine in Cluj (2000 – 2008); then president of University.				
	1989 – 1995	1995 Law & 1997 Teachers' Statute	1998 – 1999 changes	2011 Law
Mircea Miclea , president of the Presidential Committee, which prepared the 2011 Law.				X
Adrian Miroiu , Ministry of Education: General Director of Higher Education, negotiated loan (4096 – RO) from the World Bank in 1996 and implemented it (1996 – 1997); Secretary of State for Higher Education (1999 – 2000), head of National Council for Financing of Higher Education (since 2011).		X	X	X
Dumitru Miron , Secretary of State on Higher Education (2005 – 2007); early 2007 - part of the committee under education minister Hardau, which prepared one of the drafts of education law, vice-rector at Academy of Economic Studies (2008 – 2012).				X
Romeo Mosoiu , student representatives, active in the student movement at the Bucharest University (1989 - 1995).	X	X		
Radu Munteanu , rector of Technical University Cluj (2008 – 2012).				X
Valentin Muresan , project director of the World Bank loan (4096 – RO, implemented 1996 - 2002), University of Bucharest		X	X	
Petru Niculita , dean of Faculty of Biotechnology of University of Agronomic Sciences and Veterinary Medicine in Bucharest (2004 - 2012).				X

	1989 – 1995	1995 Law & 1997 Teacher s' Statute	1998 – 1999 changes	2011 Law
Dumitru Oprea , member of the education Committee of the Senate on behalf of Democratic Liberal Party (2008 – 2012); rector of Alexandru Ioan Cuza University in Iasi (2000 – 2008).				X
Doru Pamfil , rector of University of Agricultural Science and Veterinary Medicine in Cluj (2008 – 2012), vice-rector (2000 – 2008).			X	X
Ioan Panzaru , rector of University of Bucharest (2005 - 2011).				X
Oliviu Pascu , rector of the Iuliu Hațieganu University of Medicine and Pharmacy (1992 – 2000).	X	X	X	
Virgil Petrescu (two interviews), member of parliament for National Christian Democratic Peasant Party (1996 – 2000), minister of education (December 1996 – December 1997) – as Minister signed the World Bank loan (4096 – RO, implemented 1996 - 2002), active during preparation and adoption of the 1997 Teachers' Statute.		X		
Sorin Popescu , Ministry of Education: Director of HE Department (2009 – 2011), Director General of the Directorate for Education Funding (2007 – 2009).				X
Bogdan Popoviciu , head of Property Management Department at Ministry of Education.				X
Remus Pricopie , Ministry of Education: spokesman (1997, 2001), adviser (2002-2003; 2009), Secretary of State on Higher Education (2007 - 2008); dean and associate professor of				X

the College of Communication and Public Relations at the National University of Political Science and Public Administration (2005 – 2007, 2008 – 2012), from December 2012 Minister of Education.				
	1989 – 1995	1995 Law & 1997 Teachers' Statute	1998 – 1999 changes	2011 Law
Jan Sadlak , director of UNESCO- CEPES in Bucharest (1999-2009).	X	X	X	
Ana Maria Sondi , task team leader of the World Bank project: Reform of Higher Education and Research Project (4096 – RO) (1996 – 2002).		X	X	
Irina Tudor , National Alliance of Student Organizations in Romania, active in 2009.				X
Melania Vergu , journalist covering education since 1990, advisor to the Minister of Education – coordination of preparation of the Education Law from 2011 (2009 – 2010).	X	X	X	X
Lazar Vlasceanu , member of the Presidential Commission preparing the 2011 Law, deputy director of the UNESCO-CEPES (1992 – 2008), cooperated on implementation of World Bank Loan (4096 – RO).	X	X	X	X

Annex 3 List of Slovak interviewees

Interviews were delivered between 1 - 31 March 2011, July 2012, 14 July – 12 December 2014

Interviewee	Change in which the actor was involved			
	1989 - 1990	1990 Law & 1996 Amendment	2002 Law	2007 Amendment to 2002 Law
Karol Achimsky , representative of the Deans' Club during preparation of the 2002 Law, Dean at University of Zilina (1996 – 2002)			X	
Vladimir Bales , rector of Slovak Technical University 2003 – 2011.				X
Pavol Balgavy , one of the founders of the Slovak Academic Forum, from January 1990 MP in Federal Assembly.	X	X		
Juraj Barta , vice-chair of Students' Higher Education Institutions (1999 – 2002).			X	
Miroslav Beblavy , member of the advisory team of vice-primeminister for economy (2000 – 2002).			X	
Eva Bizonova , Director General of Budgetary Department of the Ministry of Education (working on HE since 1998).			X	
Pavel Brunovsky , active academic at Comenius University during early 1990s building new self-governing structures.	X	X		
Milan Dado , rector of the University of Zilina, President of Slovak Rectors Conference (2000 – 2002).			X	
Ferdinand Devinsky , rector of the Comenius University (1997 – 2003).			X	
Zora Dobrikova , Comenius University in Bratislava, treasurer (1991 – 2003), active on			X	

university level during introduction of block grants and property transfer based on the 2002 Law.				
	1989 - 1990	1990 Law & 1996 Amendment	2002 Law	2007 Amendment to 2002 Law
Maria Dziurova , Economic University in Bratislava, Economic University in Bratislava, treasurer (1994 – present), active on university level during introduction and implementation of block grants and property transfer based on the 2002 Law.			X	
Martin Fronc , vice-minister for HE (1998 – 2002), chair of ministerial committee preparing the 2002 Law.			X	
Milan Ftacnik , minister of education (1998 – 2002).			X	X
Peter Hrnec , General Director of the Budget Department of Ministry of Finance during preparation of the 2002 Law.			X	
Jozef Jurkovic , Head of the HE Department at the Ministry of Education since 2006.				X
Ivan Kraus , expert on HE, specifically on research at universities, active during preparation of the 1996 Amendment to the 1990 Law and during preparation of the 2002 Law.		X	X	
Miroslav Kusy , first post-communist rector of the Comenius University in Bratislava and MP who submitted to the Federal parliament the proposal of the 1990 Law.	X	X		
Jozef Lobotka , chair of the Deans' Club during preparation of the 2002 Law.			X	
Peter Magdolen , director of the Science and Technology Department at the Ministry of		X		

Education (1984 – 2008), responsible for drafting the 1996 Amendment to the 1990 Law.				
	1989 - 1990	1990 Law & 1996 Amendment	2002 Law	2007 Amendment to 2002 Law
Peter Mederly , General Director of the HE Department (1998 – 2006), main author of the 2002 Law.			X	
Jan Mikolaj , minister of education and main author of the 2007 Amendment to the 2002 Law.				X
Peter Osusky , MP during adoption of the 2002 Law, representing ideas of faculties.			X	
Katarina Ottova , journalist reporting on HE for the Slovak Radio (1993 – present)		X	X	X
Zuzana Petkova , journalist writing on HE for daily Pravda during preparation of the 2007 Amendment to the 2002 Law.				X
Peter Plavcan , at Ministry of Education responsible for HE since 1994, active during preparation and adoption of the 1996 Amendment to the 1990 Law, of the 2002 Law and 2007 Amendment to the 2002 Law.		X	X	X
Eva Reiselova , journalist writing on HE for Trend weekly (1997 – 2003).		X	X	
Vladislav Rosa , chair of Academic Senate of Comenius University (1998 – 2000), advisor to the Ministers of Education (1990 – 2006).		X	X	
Viktor Smiesko , chair of the Higher Education Council, active during preparation of the 2007 Amendment to the 2002 Law.				X
Juraj Svec , rector of Comenius University during preparation of the 1996 Amendment to		X	X	

the 1990 Law, MP during adoption of the 2002 Law.				
	1989 - 1990	1990 Law & 1996 Amendment	2002 Law	2007 Amendment to 2002 Law
Libor Vozar , chair of the Higher Education Council during preparation and adoption of the 2002 Law and rector during preparation of the 2007 Amendment.			X	X
Jan Pisut , vice-minister of education responsible for preparation of the 1990 Law.	X	X		
Milan Zalman , one of the founders of the Slovak Academic Forum and later first chair of Higher Education Council (1990 – 1994), active during preparation and adoption of the 1990 Law.	X	X		

Annex 4: List of the analyzed documents for changes in Lithuania

Documents		Change for which the document was relevant			
National documents		1988 - 1991	1991	2000 Law and its Amendments	2009 Law and its 2012 Amendment
1.	Decree 64/1969 on universities in the USSR from 22 January 1969	X	X		
2.	Law on Science and Studies I-1052 effective from 12 February 1991		X		
3.	Constitution of the Republic of Lithuania, adopted in referendum 25 October 1992			X	X
4.	Constitutional Court ruling from 27 June 1994			X	X
5.	Proposal of the Law on Higher Education, P-1789 from 14 May 1999			X	
6.	Law on Higher Education VIII-1586, adopted on 21 March 2000			X	
7.	Amendment IX - 169 to the 2000 Law from 25 January 2001			X	
8.	Amendment IX-684 to the 2000 Law, from 21 December 2001			X	
9.	Constitutional Court ruling from 5 February 2002			X	X
10.	Amendment to the 2000 Law IX-1526 from 22 April 2003			X	
11.	Amendment to the 2000 Law X-292 from 30 June 2005			X	
12.	Project of the Law on Studies and Research, XP 2905, proposed by Andrius Kubilius, 18 March 2008				X

National documents		1988 - 1991	1991	2000 Law and its Amendments	2009 Law and its 2012 Amendment
13.	Project of the Law on Studies and Research, XP-2905(3), 2009				X
14.	Law on Higher Education and Research XI – 242, adopted 30 April 2009				X
15.	Constitutional Court ruling from 22 December 2011				X
16.	Amendment to the Law on Higher Education and Research XI – 1987 from 24 April 2012				X
Documents by national actors					
17.	“The Problems of Quality in an Open Academic Environment”, conference paper by Algirdas Avizienis, member of Lithuanian diaspora living in US and participating in re-establishment of the Vytautas Magnus University about this process of university re-establishment, published by the Open Society Fund in 1994	X	X		
18.	“Research and Higher Education Reform in Lithuania”, conference paper by Rimantas Slizys, the leader of preparation of the 1991 Law about changes in Lithuanian HE and research between 1989 and 1994, published by the Open Society Fund in 1994	X	X		
International documents		1988 - 1991	1991	2000 Law and its Amendments	2009 Law and its 2012 Amendment
19.	Evaluation of Research in Lithuania. Volume 1: General Observations and Recommendations prepared by the Advisory			X	X

	Board, and Summaries of the Panel Reports; The Research Council of Norway, 1996				
	International documents (continued)	1988 - 1991	1991	2000 Law and its Amend ments	2009 Law and its 2012 Amendm ent
20.	Reports delivered under the PHARE project “Higher Education Reform Programme in Lithuania (HERIL):				
21.	<ul style="list-style-type: none"> Lithuanian Higher Education Reform. Expectations and Results, Bulletin no. 4, 1999, issued by Ministry of Education and Science of Lithuania 			X	
22.	<ul style="list-style-type: none"> Higher education in Lithuania. White Paper, June 1999, issued by Ministry of Education and Science of Lithuania 			X	
23.	<ul style="list-style-type: none"> The Manual of Good Practices for Higher Education Administrators (Barila et al. 2000) 			X	
24.	<ul style="list-style-type: none"> Financing of Higher Education of Lithuania in the New Millennium. Polemic Book (Antanavicius et al. 2000) 			X	
25.	“Quality Management in the Post-Soviet Era. A Baltic Experience”, article by Allan Lloyd, one of the consultants of the PHARE project, article analyzes establishment of quality assurance in Lithuanian HE, including discussion on the introduction of the new college sector by the 2000 Law, published in Sinergie rapporti di ricerca in 2000			X	
26.	“Towards a new higher education law in Lithuania: reflections on the process of policy formulation”, article by Harold G. Thomas, one of the consultants of the PHARE project, article analyzes the preparation of the 2000 Law, published in Higher Education Policy in 2001			X	

International documents (continued)		1988 - 1991	1991	2000 Law and its Amend ments	2009 Law and its 2012 Amendm ent
27.	Reviews of National Policies for Education. Lithuania. Education and Skills, OECD, 2002			X	
28.	Lithuania aiming for a knowledge economy, World Bank, March 2003			X	X
29.	Higher Education: Vision 2020 and Beyond, British Council, 2007				X
30.	OMC Policy Mix Review Report, produced by the European Research Area Committee, 2007				X
31.	Guide for Members of Higher Education Governing Bodies in the UK, Higher Education Funding Council for England, March 2009				X
32.	Statement on Board Responsibility for Institutional Governance, Association of Governing Boards of Universities and Colleges, 22 January 2010, Washington D.C., U.S.A.				X

Annex 5: List of the analyzed documents for changes in Romania

Documents		Change for which the document was relevant			
National documents		1989 – 1995	1995 Law & 1997 Teachers' Statute	1998 – 1999 changes	2011 Law
1.	Law on Education 28/1978 adopted on 21 December 1978	X	X		
2.	Law on Education 84 adopted in 1995 from 24 July		X		
3.	Teachers' Statute 128 adopted in 1997		X		
4.	Amendment 151 to the 1995 Law from 10 December 1999			X	
5.	Law on National Education 1/2011 from 2011				X
Documents by national actors					
6.	Romanian education, Romanian research. Report of the Presidential Commission for the Analysis and Development of Education and Research Policies, Presidential Commission, July 2007				X
7.	National Pact for Education, Presidential Commission, March 2008				X
8.	Education and Research for Knowledge Society, Presidential Commission, October 2008				X
9.	Resolution of the Romanian National Council of Rectors against the 2011 Law proposal, 26 March 2010				X
10.	Statement on the need for university autonomy, Universitaria (five key Romanian universities (University of Bucharest, Alexandru Ioan Cuza University Iasi, West				X

	University Timisoara, Babes-Bolyai University Cluj-Napoca, and ASE Bucharest) addressed a letter to the MPs and leaders of political parties asking to preserve the existing level of university autonomy) 13 May 2010				
International documents		1989 – 1995	1995 Law & 1997 Teachers' Statute	1998 – 1999 changes	2011 Law
11.	Reviews of National Policies for Education. Romania by the OECD, 2000			X	
12.	Report: Romanian Higher Education Reform, UNIVERSITAS 2000 PHARE project; June 2001			X	
13.	Implementation Completion Report on a Loan to Romania for a Reform of Higher Education and Research Project; World Bank, 18 February 2003			X	
14.	Model Financial Memorandum between the HEFCE and Institutions, March 1996			X	
15.	Funding higher education in England. How the HEFCE allocates its funds. Guide, Higher Education Funding Council for England, November 1998			X	
16.	Austrian University Act 120/2002 as amended in June 2009				X
17.	Danish Act on Universities, 2003				X

Annex 6: List of the analyzed documents for changes in Slovakia

Documents		Change for which the document was relevant			
National documents		1989 - 1990	1990 Law & 1996 Amendment	2002 Law	2007 Amendment to 2002 Law
1.	Law on higher education 39/1980 from 10 April 1980	X	X		
2.	Proposal of Higher Education Law by MP Miroslav Kusy, document: 309 from 4 March 1990		X		
3.	Law on higher education 172/1990 from 18 May 1990		X		
4.	Proposal of Budget Allocation to Universities, Ministry of Education, Youth and Sports of Slovakia, 1991		X		
5.	Amendment to the 1990 Law on higher education 324/1996, 20 November 1996		X		
6.	Strategy for Development of Slovak Higher Education in 21st Century, proposed by Ministry of Education, August 2000			X	
7.	Comments on Higher Education Law by government and other agencies prior submission of the Law to the Government, 2001			X	
8.	Explanatory Statement to the Law on Higher Education submitted to Government, 2001			X	
9.	Proposal of Higher Education Law submitted to Government, October 2001			X	
10.	Proposal of Higher Education Law adopted by Government, October 2001			X	
11.	Law on Higher Education 131/2002, 26 March 2002			X	

	Amendment to the 2002 Higher Education law no. 528/2003, 12 December 2003			X	
National documents (continued)		1989 - 1990	1990 Law & 1996 Amendment	2002 Law	2007 Amendment to 2002 Law
12.	Amendment to the Higher Education Law 363/2007 submitted to public debate 2007 by minister Jan Mikolaj				X
13.	Comments on Amendment to Higher Education Law 363/2007 from government and other agencies				X
14.	Explanatory report to the Amendment to the Law on Higher Education 363/2007				X
15.	Proposal of the Amendment 363 to the Higher Education Law from March 2007				X
16.	Common report of Parliament Committees 867/2007 on Amendment 363/2007 to the 2002 Law on Higher Education				X
17.	Amendment to the 2002 Law on Higher Education 363/2007 from 9 August 2007				X
Documents by national actors					
18.	Strategic document, Academic Forum of Electro-Technological Faculty of Slovak Technical University, 30 November 1989	X	X		
19.	Proposal of action plan of Academic Forum of Slovakia, 8 December 1989	X	X		
20.	Letter from education minister to all deans in regard to introducing democracy to universities, no. 2/90 sekr., 28 December 1989	X	X		
21.	Letter of Minister to all rectors and deans in regard to introducing democracy into work of cathedrae and faculty institutes, no. 385/1990-sekr., 18 January 1990	X	X		

Documents by national actors (continued)		1989 - 1990	1990 Law & 1996 Amend ment	2002 Law	2007 Amend ment to 2002 Law
22.	Plenary debate on the proposal of the Law on Higher Education in Federal Assembly of Parliament of CSFR from 3 May 1990		X		
23.	Declaration of Academic Forum of Slovakia from 20 March 1990		X		
24.	“University Face without Make-Up. Interview with Jan Pisut, vice-minister at Ministry of Education, Youth and Sport of Slovakia”, (Pisut led preparation of the 1990 Law), in daily SMENA, 11 October 1990		X		
25.	“Academic Forum of Slovakia as a union of university employees”, article by Ivan Benedikovic, one of the founders of the Academic Forum published in Our University magazine, November 1990		X		
26.	“Amendment to the Higher Education Law Goes to Parliament in September”, article published in Our University magazine, September 1996		X		
27.	“University Autonomy is not a Privilege, it is a Necessary Condition for bringing-up Young Inteligencia”, article by Juraj Svec rector of Comenius University, article published in Our University magazine, September 1996		X		
28.	“Prof. Svec: It is not only right, but also duty of the academic community to defend academic rights, freedom and university autonomy gained during the Velvet Revolution”, article published in Our University magazine, October 1996		X		
29.	“Memories on drafting the law 172/1990”, article by Jan Pisut former vice-minister of education responsible for drafting the Law on HE in 1990, Forum Scientiae, 1997	X	X		

Documents by national actors (continued)		1989 - 1990	1990 Law & 1996 Amend ment	2002 Law	2007 Amend ment to 2002 Law
30.	“Higher Education Reform and the Autonomy Principle”, article criticizing the initial proposal of board composition by Frantisek Gaher, chair of the Comenius University Senate, published in daily SME, 1 March 2001			X	
31.	“Ftacnik: The Law Proposal Can be Improved”, article in daily SME covering opinions of academics on board composition and on openness of education minister to change these provisions in the law proposal, 3 March 2001			X	
32.	“Will Kosovo have better law than us?”, article by Ivan Ostrovsky, vice-rector of the Comenius University in daily Pravda criticizing the initial proposal of the education ministry about boards’ composition, 9 March 2001			X	
33.	“Demand for autonomy”, article by press agency SITA citing Libor Vozar. the chair of Higher Education Council who noted that the 2002 Law would be useless if it did not contain economic freedoms, property transfer and possibility to acquire non-budgetary resources by universities, published in daily Pravda, 14 March 2001			X	
34.	“Devinsky: There is a danger that higher education will be provided by corn research institute”, article in daily SME covering opinions of Ferdinand Devinsky, rector of the Comenius University on board composition – he criticized initial proposal and on property transfer which he welcomed, 29 March 2001			X	
35.	“Economic rights”, article by journalist Aneta Graindova in daily Pravda citing Comenius University rector Devinsky who warned that the finance ministry does not agree with			X	

	introduction of economic freedoms and transfer of property to universities, 29 March 2001				
Documents by national actors (continued)		1989 - 1990	1990 Law & 1996 Amendment	2002 Law	2007 Amendment to 2002 Law
36.	“The Ftacnik's Ministry Rewrote the Delayed Law”, article published in daily SME citing the education minister Ftacnik about how the ministry changed the boards' composition, 18 May 2001			X	
37.	“The Reform of Higher Education is Necessary”, article by Libor Vozar – chair of the Higher Education Council in regard to the powers of faculties within 2002 Law, published in daily SME from 30 October 2001			X	
38.	Plenary debate in Slovak Parliament on proposal of the 2002 Law on Higher Education, 1st reading, 12 December 2001			X	
39.	“They are arguing about Higher Education Law”, article in daily Pravda, 13 December 2001			X	
40.	“The price of compromising with power's vanity”, article by Branislav Liska, member of the Higher Education Council in regard to the powers of faculties within 2002 Law, published in daily SME, 20 February 2002			X	
41.	Plenary debate in Slovak Parliament on proposal of the Law on Higher Education, 3rd reading, 2002			X	
42.	Minutes from Plenary session of the Higher Education Council on 2007 Amendment, 26 March 2007				X
43.	Minutes from Slovak Rectors' Conference Plenary Meeting on 2007 Amendment, 11 April 2007				X

44.	Letter from Chair of University Council to Prime Minister on 2007 Amendment, 4 May 2007				X
International documents		1989 - 1990	1990 Law & 1996 Amendment	2002 Law	2007 Amendment to 2002 Law
45.	Higher Education in Czech and Slovak Federation Republic. Project by Czech and Slovak Research Team for the OECD Review (Harach at al., 1991)		X		
46.	Review of Higher Education in the Czech and Slovak Federal Republic, OECD, 31 March 1992		X		
47.	Czech Law on higher education 111/1998, the original version without later amendments			X	
48.	The Slovak Higher Education System and Research Capacity. EUA Sectoral Report, January (Jensen et al. 2008)				X

Annex 7: 30 concrete policies within modernization agenda

The set of internationally promoted policies was defined by the author based on the following documents and literature analyzing internationally promoted policies: European University Association (Estermann and Nokkala 2009), the World Bank (Fielden 2008), the (OECD 2003), (EURYDICE 2008)), (De Boer and File 2009), (Enders and File 2006), (Dobbins and Knill 2009), (Bleiklie and Kogan 2007), (Clark 1998), (Sporn 2003), (Santiago et al. 2008).

1. Universities' internal organization and management

- The university is centrally managed rather than aggregate of the interests of different part of the university. There is clear top-down line of authority rector -> dean -> head of department and managers on each level are appointed from above
- The decision-making power is with university management (rector) not with collegiate body (senate). It sets the strategic goals of university. The collegiate bodies (like academic senate) have consultative role in the area of academic issues not in administrative issues.
- Rector can come from outside of university (the position of rector is open to public competition)
- Management skills are part of the requirement for rector
- Rector/central management body decides what responsibilities will be delegated to other bodies

2. Universities' relation with the state

Arms-length steering:

- Evaluation by external quality assurance bodies
- Evaluating outputs not inputs

Internal organization is up to university:

- Division into faculties/departments
- Division of powers and responsibilities between central level and faculty

Decision-making mechanisms up to universities:

- Division of powers and responsibilities among individual bodies (senate - rector/president – board)
- Rules defining composition of decision-making bodies
- Decision-making procedures on central level and level of faculties
- Rector's term in office (length and possibility to run again) is defined by university not by law

In regard to academic activities university management and academics decide about:

- Curriculum
- Opening & closing programs
- Decide on numbers of students

Use of financial, material and human resources:

- Budget provided and steered by buffering body not state
- Diversified funding (tuition, donations, private entities, royalties from intellectual property rights, grants)
- Block grants without prescription of use of resources
- Possibility to keep surpluses
- Funding approach – output based
- Possibility to charge tuition fees defined by university
- Possibility to own and dispose real estate that is in university's use
- Possibility to borrow and invest money
- University recruits staff (university defines all requirements for staff recruitment)
- University sets salary
- The staff are university's not state employees

3. Universities' relations with wider society

University's management includes body with external stakeholders:

- Role of this body: strategic management.
- The body is rather small between 12 – 25 members with majority of external members
- The powers of the body include: overseeing operational, educational and financial activities, appointing the rector, decisions about university's strategy, approving the budget of the university.