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Composition of Magna Charta Universitatum Observatory

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Observatory for Fundamental University
Values and Rights

Autonomy and Responsibility

The University's Obligations for the XXI Century

Proceedings of the Launch Event
for the Magna Charta Observatory
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Foreword

Dr Andris Barblan
Secretary General of the Observatory

The University is the only institution present in all European countries with the same objectives, similar structures, and a common culture. It represents an intellectual community reflecting the needs and potential of the social and political integration of Europe.

In celebrating the eighth centenary of the University of Bologna in 1888, Giosué Carducci pointed to the development all over Italy of academic institutions as proof of an Italian identity. In 1988, Giuseppe Caputo, the organiser of the ninth centenary, extended the idea of such a commonality of purpose to Europe, also a political area in the making. To seal this sense of shared identity, the University of Bologna, with the support of the CRE, the Association of European Universities, provided the means for academic institutions to make their common features explicit, the Magna Charta Universitatum.

On 18 September 1988, the festivities celebrating the ninth centenary of the Alma Mater of European higher education culminated with the signing ceremony in Piazza Maggiore in Bologna: in the presence of the President

of the Republic, members of the Italian government, church and local authorities, 430 rectors, from Europe and beyond, subscribed to the principles proclaimed in the Charter that reasserted the fundamental values, rights and obligations of the University as a key institution in society. If the University is to 'profess', i.e., commit itself to the definition and dissemination of knowledge, thus providing society with intellectual reference points, it needs institutional autonomy and academic freedom, and the capacity to question and reorganise the framework of our presence in nature and society.

Ten years later, the University of Bologna and the CRE announced their intention to set up an Observatory that would monitor the implementation of these principles. A foundation was created under Italian law with the support of the Cassa di Risparmio in Bologna and the Italian government. After two years of pilot activities, the Observatory was solemnly inaugurated in September 2001, a new institution for a new century. Indeed, autonomy and academic freedom are not inflexible concepts: they have evolved over the centuries and adapted to circumstances in order to retain the university's capacity to act and search for truth. In a fast-changing world, the growing mobility of ideas and objectives needs anchor points that give sense and direction to the movement of history; otherwise, it becomes mere agitation. The University can be such an anchor for society.

The aim of the Observatory is to contribute to this redefinition of the University's central position in social development, and its responsibilities vis-à-vis other institutions shaping Europe's future, the governments, firms and many organisations making up civil society. To address these questions, Prof. Fabio Roversi Monaco, the Observatory's President and the former rector of the University of Bologna, invited Claude Allègre, the former French Minister of Education, to address the par-

ticipants at the official inauguration of the Observatory on 21 September 2001. Claude Allègre had been the promoter of the Declaration signed in May 1999, also at the University of Bologna, by 30 European Ministers of Education announcing their intention to create a European Higher Education Area by 2010. The text outlined the instruments of convergence that could bring together the many systems of higher education into a common European scheme of learning offering comparable and compatible knowledge and competences to all the citizens of the continent. In a way, the 1999 Bologna Declaration called on the universities, with the support of their governments, to abide by the commonality of purpose they had claimed 11 years earlier when signing the Magna Charta Universitatum, thus fulfilling their potential in the integration of Europe.

Starting with the keynote address by Claude Allègre, this volume records the contributions of the participants at the inaugural ceremony of the Observatory, showing the importance it could take on as a mediator between the academic institution and its many stakeholders, and as a proponent of new concepts of academic responsibility in today's society.

The Setting up of the Magna Charta Observatory of Fundamental University Values and Rights

Prof. Fabio Roversi Monaco
President of the Collegium, Bologna

The drafting of a Magna Charta of the Universities was first proposed at a meeting of some of Europe's oldest universities in Bologna in 1996. The idea was immediately well received, and the enthusiasm displayed by the many Rectors who took part in a further meeting in Bologna in 1987 led to the setting up of a steering committee that produced the definitive document signed on 18 September 1988.

The process giving rise to the idea and the drafting of the Magna Charta was particularly significant. It was not handed down by some higher authority, but generated by the Universities, in the Universities, as part of a long process attracting widespread support, with on the one hand a focus on the fundamental values of the European University tradition, and on the other hand a focus on non-European universities, in order to strengthen the links between higher education institutions worldwide. All this took place not only with a view to working within the legal framework of the various States and the particular characteristics of each university system, but also

to strengthening the independence of higher education vis-à-vis the State, since university autonomy is in itself a fundamental value in any legal system, though it is not always recognised as such.

The common roots, based on the spiritual unity of Europe in the Middle Ages and the free circulation of teachers and students that characterised the period, facilitated by the use of Latin as a lingua franca, are mentioned in the Magna Charta in general terms, out of respect for the autonomy of the various systems of higher education and individual university traditions, but also in an incisive manner, to reaffirm the existence of a series of fundamental principles which the main universities of the world could freely and spontaneously embrace in signing the document.

With the signing of the Magna Charta the nature of universities as supranational bodies once again became clear, emerging from the shadows of the closed systems of nation states, the limits of bureaucracy, and at times the short-sighted and mistaken interpretation of certain cultural tendencies.

In 1888 the celebrations for the Eighth Centenary of Bologna University were certainly inspired by cultural unity and the rediscovery of the university's roots in Italy.

In 1988, in a completely different world, in which technological progress had overcome the limits of space and time, with enormous benefits, though leading to excessive specialisation with all the ensuing restrictions, the themes of the unity of culture, the supranational nature of universities, and the need for mutual knowledge and integration once again came to the fore as part of a new initiative in the European humanistic tradition.

There was a need to reflect on the origins of the University, revisiting them in order to meet the challenges of today's world, and to confirm the necessary integration

between university and society in the clearest possible terms.

The interlocutors of the universities who drafted and signed the Magna Charta and support its aims and principles are not only the individual states, but also and above all the peoples of each country, since universities interpret the vital needs of contemporary society.

To perform this task, the universities expect their respective States and legislatures to recognise their autonomy and independence from every form of power, the freedom of their faculty members in teaching and research, and freedom for students, who are entitled to an effective education, first of all as men and women but at the same time as researchers, administrators, entrepreneurs and professionals.

In order to represent society, universities must take account of the problems arising from the unequal distribution of resources characterising the world today: environmental and energy problems, social exclusion, and inequality among the peoples and geographic areas of the world.

The need for freedom on the part of faculty members means above all freedom of research, since at university level teaching is an ever-moving frontier aimed at the solution of continually emerging problems. This need for freedom of research, linked to the freedom to teach in a way that is both up-to-date and capable of responding to students' needs and aspirations, can be met by safeguarding not only the individual, but also the institution in which the individual operates. It is therefore an essential aspect of the life of the university.

On the basis of the freedom of the institution and its autonomy, individual faculty members can carry out research, which in most cases requires a complex organisation and costly structures without which research would not be possible in the present-day world, though this is

not true to the same extent for all disciplines, as there is a great deal of variation.

Without adequate resources, the result would be, and unfortunately in many cases is, an obsolete form of teaching that is inadequate, leading the university to be seen as an outdated institution of marginal value, simply examining students rather than serving as a forum for debate, enlightened education and the growth of knowledge.

We need to pay attention to all these aspects, while bearing in mind that universities cannot be slaves to passing fashion, nor should they be considered as warehouses of knowledge where it is possible to acquire cultural products off the shelf without a strong personal commitment.

The values inspiring the Magna Charta have been given due consideration by many States and governments. The Bologna Declaration of 19 June 1999, signed by 30 European Ministers of Culture and Education, makes express reference to the fundamental principles of what is called the "Bologna Magna Charta Universitatum", before going on to produce another document of historical importance aimed at reconstructing the unity of a European space and culture based on the humanistic tradition epitomised by Erasmus, the last of the travelling clerics of the Middle Ages and the first intellectual of a Europe without frontiers.

But even if the University fulfils its true role in society, even if it does not yield to the temptation to turn in on itself, creating a kind of academic corporation, and it displays its determination within the various European states to preserve its essential character as an organisation with its own agenda and an ability to take the initiative and play a constructive role in society, it has been the case, it is the case and it will be the case that the University working in the context of state systems placing

limits on its autonomy may be subject to unacceptable pressures.

This can be true both with regard to the University as an institution and with regard to its component parts, such as faculties, research departments and institutions, and within these structures, in terms of the fundamental rights and freedoms of individual faculty members that are violated for whatever reason.

Finally, it may also be true with regard to student rights and freedoms within a system which, as the Magna Charta states, sees the University as a place in which intolerance is rejected and debate is encouraged, thus becoming the meeting place between professors who have the ability to disseminate knowledge and the means to cultivate it through innovative research, and students who have not just the right but also the will and the capacity to achieve personal development.

It is to further safeguard all these rights based on shared values and to further protect and defend them in the context of the international academic community that the Magna Charta Observatory of Fundamental University Values and Rights has been set up.

University Autonomy, Academic Accountability and European Integration

Claude Allègre
former Minister of Education, Paris

The building of a European community of universities is one of my favourites topics; I would like to deal with some of the present and future trends of its development, as I think you may have to enlarge the scope of your interests if you are to ensure the long-term relevance of the Magna Charta for today.

Indeed, there are some new problems emerging.

First, in terms of the union of our countries. As you know, in three months, we will have a common currency, at least in most countries of the European Union. This is a step forward in the construction of an integrated Europe. However, my personal political experience warns me that time will pass, long time indeed, before we move further in building a closer political union than we have today. There will be many conferences, there will be many speeches, but progress will be very small, because we have reached a political threshold: to pass it would mean for the present leaders of our nations to lose a good part of their power. As I do not think that they are ready to do so, we will have more meetings with less results.

Thus, we are heading for a new stage of stagnation in the building of Europe; my point is that this represents a big opportunity to explore other areas of European integration, moving forward in the fields of culture, education - and of higher education -, moving towards a universities' Europe. That is the best way for our children to become real Europeans and not to feel blocked, like the present generation, by some secondary objectives. In other words, there is a fantastic opportunity to be seized: we should not forfeit it.

Hence our call to harmonise the structures of higher education in Europe. And may I insist that harmonisation, for me, is just the opposite of uniformisation? Harmonisation implies a similarity of purposes, it does not require a similarity of rules - like uniformisation which is the bureaucratic temptation of the European Commission. Europe, however, is diverse, made up of several countries with their own traditions and needs, as reflected in their own curricula; programmes divide knowledge differently, courses argue data differently in different parts of the continent; to bring them together is no easy task as they are difficult to change. Uniform curricula could be a quickly imposed solution, indeed, but this would alienate the people and reduce the European viability of the system. I repeat: Europe's strength is European diversity. Not uniformisation. We have to keep diversity.

Therefore, our idea was not to change curricula, but to set up bridges allowing the students to move from one course to another, from one national system of higher education to another, in other words to build on parallel developments, although with an aim at long-term convergence. That is the process we initiated at the Sorbonne meeting of May 1998 when I invited my British, German and Italian colleagues to join in this reflection on the harmonisation of national systems of higher education. And it was a lucky thing that the four of us

were people working in the same spirit, sharing similar analyses of the needs of our times.

The Sorbonne conference was the first step; then followed the Bologna conference in June 1999. That encounter of some 30 Ministers from wider Europe was no easy meeting because of remaining fears about uniformisation. But it proved a success because we refused the Europe of uniformity. Had we not done so, the whole process would have fallen apart. On the contrary, it throve and the Prague Summit, in May this year, took stock of its progress and confirmed its importance for a Europe of culture.

The key to the culture integration of Europe does not lie with governments, however. And that is an essential point. It lies in the people of the continent and their institutions. Thus, for higher education, the process should be in the hands of the association of the rectors of the universities; otherwise we can only regress. As a politician, I would like the rectors, as proponents of knowledge, to reflect on Europe's intellectual needs of tomorrow and to put up their act together. They could start on a bilateral basis, universities coupling efforts and recognising each other's teaching - as it is impossible to force an institution to recognise the diploma of another if it does not want to.

They could also encourage further the mobility of students. And this means allocating more resources to student exchanges. The money pumped by Brussels into student mobility is of interest, but it is too small when compared to what is needed. In other words, countries will have to invest more in the harmonisation of personal goals and competences in Europe; so will have the universities.

The next area of institutional interest is the mobility of professors, not in terms of guest lectures and ad hoc exchanges but in what I would call "permanent mobili-

ty". We should have some professors whose mobility is organized on a long term basis, let us say, for five years; they would alternate six months of teaching in Bologna, for instance, with six months in Oxford; they would be professors of both Bologna and Oxford universities. Of course, this will create difficulties concerning social security, pension schemes, retirement age – and all such things. Again, if this were to be imposed on a large scale, it would not work; the scheme would soon be blocked. However, if one starts small, developing agreements between two or three institutions, the process could be started and new forms of mobility of professors be tested. In other words, if the university is to be the initiating force in cultural integration, the institution must have the capacity to launch new projects, to explore new ideas, to validate new modalities of collaboration. Institutional autonomy is essential then, an autonomy not only from governments but also from other actors in society. The university must become a full partner of its stakeholders and this question of autonomy will be the key question in the future – as shows already the present experience of many universities in the United States.

To understand university autonomy, a few historical references would be useful. If, in the Middle Ages, some universities followed the Bologna model and were organised by students, many others were founded by the knowledge suppliers - the scholars - clerics with individual ecclesiastical status. This gave the Church powerful arguments to control university development. To get autonomy from the Church, the university tended to play the government against the Church or, vice-versa, when public authorities were getting too important. The university developed its margin for manoeuvre by balancing States and Church interests, not always with success.

For example, France experienced a pure intellectual disaster at the time of the Reformation. Protestant re-

forms, inspired by Luther and Calvin, met indeed with trouble when they confronted universities with a changed view of the world. Thus, some Sorbonne professors having a liberal reputation, the Pope was asked to propose the University of Paris as a referee in the dispute. It took the Sorbonne some 18 months of secret debates to come to a conclusion - at the advantage of tradition. The result was a disaster: not only was Luther condemned but also education in physics, natural science and architecture, disciplines which were considered to have been brought about by noxious winds flowing from Italy. As a result, France was obliged to develop education in natural science outside of the university; and that was the germ of what later came to be known as the "Grandes écoles", the university having opted out of the field. But worse still: the people who had taken part in the Sorbonne debate had kept their deliberations secret; no one really knew which professor was more liberal than others. So, at the time of the Saint-Bartholomew's day massacre, when Charles IX allowed in 1572 the slaughter of French protestants, the Sorbonne conservatives saw an opportunity to denounce liberal colleagues. The Saint-Bartholomew's night proved fatal to the Sorbonne progressives, who were murdered. The Sorbonne, as an institution, turned on to itself and became reactionary. That is an example of a failed balance between independence from the Church and autonomy from the government.

A few centuries later, in France still, the state took over higher education as a tool of power; Napoleon thus considered the university to be too liberal for his own designs; he reorganized the institution from the political centre and created the position of *Grand Maître de l'Université*. This "Great Master" had overruling power on the university system as a whole and could decide the content of all teaching. This was one of the most thor-

ough attempts at uniformisation. Even if the "Imperial University" has long disappeared, some of its traditions still survive in France today: we have national programmes and their role is extremely important in the country; university people have tried over the years to reinforce their independence from political power but the national co-ordination remains so strong that real autonomy is still a dream for French universities. They speak a lot about it but I am afraid that they do not really experience it.

Next to political autonomy, a new type of independence is required today as shown by US examples. The university is not only creating and transmitting knowledge. Today a lively university is an institution also interested in know-how, in the development of new technologies based on new skills. This results in the creation, at the institution's margins, of academic spin-offs contributing heavily to economic strength. Do you know that the growth in the product of the State of Massachusetts is, for 70%, generated by MIT, the Massachusetts Institute of Technology? In other words, the university is an economic power. This economic power and potential have induced universities to become such achievers that large industrial companies are now thinking of abolishing any research of their own, or more precisely to have it outsourced. This means commissioning universities when they do research better, while keeping the development of research results in the firm's laboratories. I know of some departments at MIT that have no funding at all from the National Science Foundation: all resources come from private industry.

The drawback from this new form of dependency is linked to publication: if you work for private industries, can you publish? With a patent system like in the U.S. yes; unfortunately not in Europe, where intellectual property rules are stupid. As you know, this has been one

of my battles, as a Minister – and it is not over. In the US, indeed, when you make a publication in open literature, you still have six months to take a patent. And, when you take a patent during these six months, the date of the publication in the open literature becomes the time reference. In Europe, once you publish in the open literature, you lose the right to take a patent. As a matter of fact, I can give you examples of American people who have been taking patents for research done in Europe and published in European open literature, thus depriving European researchers of their own results. I mention this perverse effect in order to persuade the people in Brussels that change is needed, even if this entails a great deal of work. Publication in the American system does not pre-empt patenting but this has unwanted consequences too, as ideas for patenting become "precious" all along the research development line. Therefore, in some departments, the students are forbidden to give any seminar linked to their research. As a result, students are completely blocked, marginalised in the academic community; indeed, should they give a seminar, they could pass on information to competitors, often colleagues of their own lab, if not of a neighbouring institute. Worse still, some time in the same laboratory, you have one student working for one firm, a pharmaceutical company for instance, and another student working for another: they are not allowed to discuss their work, even if (especially if) their research has important areas of commonality.

How can the university survive such a forced fragmentation of knowledge? What, in such a context, does freedom mean in the sense of intellectual pursuit? Indeed, the problem has become so acute that American professors are now uniting against that debilitating trend. But you can go one step further still: when a professor becomes the chairman of a company, the initiator

of a new start-up, can he still care for his graduate students or is he more than obsessed by the need to maintain his own company? Some professors, indeed, are no longer seen on campus. Can rules be set up to alleviate such risks of academic disintegration?

Where the allegiance to the university as an institution disappears, new sources of conflict emerge. For instance, let us imagine a PhD student working on a new language in computing. The student comes out with results and decides to patent the language; the research topic, however, has been given by a professor. Can the professor claim rights on the product patented by the student? If so, they could even go to court to solve the matter – not really a proof of academic community spirit.

These are new problems which the Magna Charta principles should encompass today. Can the Observatory contribute to developing a certain number of rules on how the university should behave? A law recently passed in France encourages professors, for instance, to co-operate with industry; but, in my country, they are often the weaker partner; to support them, there is a need for transparency as far as their linkages with industry are concerned. Opacity in private connections can also ruin university autonomy for, today, academic independence should be ensured not only from political but also from economic power. Another complex area for university identity is the Internet. At present, many of our institutions provide lectures on the web. This could lead to graduation processes organised electronically. For the university, such a prospect causes a serious question about its responsibility vis-à-vis what is being taught. May I give you another example from Massachusetts? The State Supreme Court had to judge a case of law courses made available on the web by a Harvard professor. Who was responsible as to their use, the professor or the University? Harvard was claiming that, as a member

of the staff, the professor was paid to teach Harvard students. The judge asked the professor: "Did you simply post your course or did you answer questions from web users? In other words, did you communicate with students?" "No, said the professor. I just put my lectures on the web". "Then, said the judge, there was no teaching, for teaching supposes interaction with the learner! Posting courses on the web is like publishing a book".

Certainly true, but, at present, there are more and more possibilities to interact through electronic means. Is this teaching, when MIT, for instance, makes available on line all its courses? And what will this imply when some people want a degree based on their acquaintance with MIT material, at large? Will such a degree compare with another one certifying work on campus? Should the outsider spend some time also on campus to be entitled to a degree? And what of "network teaching", through Internet, when providers can be many? Who is responsible? The supplier (and which one), the user or some kind of interface body linking them? Once again, there is some need for regulation to make sense of the use of knowledge in society.

That is the kind of problems I wanted to raise. Mr. Rector, the Observatory and the Magna Charta are great ideas. But, to be relevant to today's problems, they should go beyond the work of two nice committees. Their members will need to meet to discuss the new conditions of autonomy for the new university, especially if the place of the university in the new society is to increase: indeed, a growing number of people will want to be educated, during all of their life. They will wish to go to university – not to be trained in schools. I expect that the university will become a permanent feature of society everywhere. But what does lifelong learning mean to the university identity? Who certifies learning and how are diplomas delivered? How will such degrees compare

with initial awards? And what does this imply for mobility, between institutions, between academic providers and others? These are problems of responsibility and responsibility shapes autonomy. Time is appropriate for university people to reflect on these questions.

Of course, the university wants to have the freedom of intellectual thinking, and this is legitimate. But if academic freedom leads to complete isolation, as we sometimes experience, universities will turn on to themselves, never develop new disciplines, never develop new fields and so forth. They will become completely closed. If autonomy is the capacity for responsibility, however, the universities, in Europe and beyond, should open on society, a link that could be reflected, organisationally, by some kind of Board of Trustees: the Anglo-Saxons have it. This is the place where society meets academia, where society expresses its expectations from the university. Then university is no object of divine privilege where professors do what they want. It is a two-sided situation: as society expects results, the university can also ask for support. Nothing changes in the world. On a very old record, in Mesopotamia, there is a mention of a teachers' strike in a school of scribes: they considered that they were not paid enough; the king of Lagash, a city in Sumer, reacted by saying: "you have freedom, so do not ask for an increase in salary!". This kind of reply has been used, again and again, by all governments: "you have an interesting job, you have freedom, so why ask for more money"? But resources define also the place of the institution in society. That is why, even from this material point of view, the universities' autonomy can be discussed. What is appropriate funding, that is a serious question. It is not enough to say "We want to be free, we are going to organise ourselves". No, we have to find a modern way to have a real link with society, expressing dialogue between partners. The conditions of that dia-

logue are also the basis of autonomy, the tool for cultural and intellectual integration in Europe. A big problem for our future, for our continent – a big challenge for the Observatory, if the Magna Charta is to give sense to intellectual cooperation in a slowly integrating Europe.

The Structure and Role of the Observatory

Lucy Smith
Vice-President EUA, Oslo

Universities can fulfil their special necessary mission of research and development only if they are free and independent "of all political authority and economic power." This is the main cause behind the establishment of the Observatory. If the society does not secure the existence of free and intellectually independent universities, we ourselves – the universities – must act.

I have been asked to speak about the structure and role of the observatory. In this connection I feel it is pertinent also shortly to discuss the academic values that will constitute the basis of the work of the Collegium.

The Collegium and the Magna Charta

The Observatory consists of two bodies, the Collegium and the Board. The Collegium is responsible for pursuing the aims of the Magna Charta Observatory and it is thus the public voice of the Observatory. The Board of Directors carries the legal and fiscal responsibility for the Foundation pursuant to Italian law. It carries out the

administrative, financial and fundraising activities required to achieve the aims of the Magna Charta Observatory. The Board appoints the members of the Collegium and guarantees their full independence in the exercise of their activities. Nomination of the members shall be by the European University Association, the Senate of the University of Bologna, other leading international organisations at the request of the Observatory.

The statutes of the Magna Charta Observatory state that the Observatory aims to gather information, express opinions and prepare documents relating to the respect for and protection of the fundamental values and rights laid down in the Magna Charta Universitatum. The basis of the work of the Collegium is thus the Magna Charta Universitatum. This implies among other things that although legal considerations may be of relevance in certain cases, they are not the main basis for Observatory opinions and actions. This is expressed in the regulations of the Collegium. It is important to stress that the Observatory in its work reserves the possibility to denounce all types of rules, even laws and constitutions, found in contradiction with the Magna Charta.

While the Observatory may have to commission some specific surveys and research, its role will mainly be to disseminate and explain the abundant existing literature on university autonomy and rights. The Collegium has further decided that it will not limit its action by virtue of any administrative or legal definition of the word "university".

What are the academic values?

Fundamental parts of the traditional academic values are institutional autonomy and academic freedom. These two concepts are often treated as one, and sometimes confused, but although they are connected, it is

important to distinguish between them. There is no general agreement of the definitions of these two concepts. University autonomy refers to institutional self-government, while academic freedom relates first and foremost to the academic staff, but also to the institution as such. One could say that one of the main purposes of institutional autonomy is to safeguard the academic freedom.

What does the Magna Charta say about university autonomy and academic freedom?

1. The university is an autonomous institution at the heart of societies differently organized because of geography and historical heritage; it produces, examines, appraises and hands down culture by research and teaching. To meet the needs of the world around it, its research and teaching must be morally and intellectually independent of all political authority and economic power.

2. Teaching and research in universities must be inseparable if their tuition is not to lag behind changing needs, the demands of society, and advances in scientific knowledge.

3. Freedom in research and training is the fundamental principle of university life, and governments and universities, each as far as in them lies, must ensure respect for this fundamental requirement.

There is no clear definition of autonomy or academic freedom. The Secretariat of the Higher Education and Research division of the Council of Europe discusses in a recent paper whether the Council should start the work towards a European Standard or a Convention on the governance of higher education. The paper argues that this could be useful because the Magna Charta has no legal force, and because of the limitations of the Magna Charta. According to the paper the limitations are that it

only mentions universities, not other types of institutions, that it does not address the issue of accountability and the proper use of funds, because it lacks the expression of democratic principles in the constitution, and in particular the participation of internal and external stakeholders. Moreover, the paper points out that the Magna Charta does not include the academic freedom of the individual professor against the institution, or take into consideration the limitations of the universities' autonomy.

I would like to emphasise in this connection that the Magna Charta was a short declaration, and not meant as a complete regulation of academic values and responsibilities. I agree that there are certain limitations, but these are partly taken care of in the Collegium regulations, and the idea is that the principles will be further discussed and elaborated through the work of the Collegium.

To me a European convention does not seem a good idea, as these are partly issues that should be worked out by representatives of the institutions themselves, and partly by the nation states. University autonomy reflects both a nation, its governing system and its culture, and the idea of what will be the right degree of autonomy will vary a lot in the different countries. For this reason the formulation of a standard will also entail problems. It could in any case be nothing more than a standard of the lowest acceptable practices, and thus not encouraging best practices.

Institutional autonomy

Institutional autonomy in its most extreme sense means that individual institutions are free to make their own decisions independently, and manage their own affairs as they see fit. But autonomy for higher education insti-

tutions does not at all mean complete independence. It seems to me that the degree of autonomy that traditional universities have enjoyed has been exaggerated by many. A university is always dependent in some ways. The state governs the universities, directly by law and regulations, indirectly by budgeting. Private universities will be more autonomous than public ones, but even private universities will to a certain extent be regulated by law. It is necessary for the state to have a national policy of higher education, and the government has a duty to weigh the needs of the university against the other needs of society, like health, crime prevention, etc.

In several European countries – that is the northern and the continental countries - universities have in recent decades been given greater responsibility for budget, personnel and property issues, which previously were entirely within the competence of the state. This means more autonomy for the institutions – at least more formal authority. The other side of the coin, however, is that a posteriori control has increased, and the crucial question becomes to what extent formal autonomy is also true autonomy. In the UK the universities are legally independent private-sector institutions, and they have had a tradition of almost full autonomy. The development seems now, however, to have been a movement towards more state intervention, partly to gain more control of the costs., also in Britain.

The question is how much autonomy is required for universities to be able to exercise academic freedom. It is difficult to give a general answer to this; it will depend on the culture and political system in the country. The essential thing is in my opinion to have autonomy in academic matters.

In May 2001 European Ministers of Education and Research met at the Prague Summit of Higher Education. The meeting was part of the Bologna process, which has

as main goal the creation of a European Higher Education Area. The message from academia to the European ministers at the Prague meeting was that universities must be able to shape their strategies, choose their priorities in teaching and research, allocate their resources, profile their curricula and set their criteria for the acceptance of professors and students. European higher education institutions accept the challenges of operating in a competitive environment, but to do so, they need the necessary managerial freedom, light and supportive regulatory framework and fair financing. It was further emphasised that if the current over-regulation and minute administrative and financial control of higher education in many countries is upheld, this will result in unfair competition.

As the Magna Charta does not really give much guidance to the Observatory Collegium, the body that gives the opinions, it will be necessary for the Collegium also to look to other documents and definitions in their work. The aim is that the Collegium, through their work, will be able to analyse and define in more detail what constitutes unacceptable infringement of the autonomy of an academic institution. An important part of the work of the Collegium should also be to encourage and initiate debates on university autonomy.

The IAU (International Association of Universities) was invited by UNESCO in 1995 to assess the feasibility, desirability and possible content of an International Charter on Academic Freedom and University Autonomy. A task force was created, and prepared a draft Statement on Academic Freedom, University Autonomy and Social Responsibility The proposal was published in 1998. Although I do not agree with several of the formulations in the proposal, I think the proposal and the work of the task force has been useful and has had an impact in several connections. The definition of academic autonomy is the following: “The principle of Institutional

Autonomy can be defined as the necessary degree of independence from external interference that the university requires in respect of its internal organisation and governance, the internal distribution of financial resources and the generation of income from non-public sources, the recruitment of its staff, the setting of conditions of study, and finally, the freedom to conduct teaching and research."

This definition does not say anything about what should be the "necessary degree of independence", and thus gives little guidance, except that it mentions the areas where the institution must have some degree of independence.

In some countries – for example, Finland, Germany and South Africa - academic freedom or university autonomy is safeguarded by the constitution, though more often it is guaranteed in the national legislation regarding higher education. There is, however, no internationally legally binding document about university autonomy.

Academic freedom

Academic freedom is the "central, pervasive and guiding principle of academic work" as already stated. The essence of the principle is that members of the academic community shall be free to carry out research and teaching without any outside interference. It is often said that a distinction must be drawn between academic freedom and freedom of speech. This is true, in that academic freedom not only embraces freedom of expression, but also freedom in the choice of research field and freedom in the research process. As regards academic freedom of expression, I cannot see that this principle reaches further than the general freedom of speech, except that there will more often be limitations to the freedom of

speech in other settings, for example for civil servants or people in the military, and for special professions. The difference is in the reasoning behind the principles. Academic freedom is a freedom granted by society to members of the academic community to ensure that they are able to fulfil the tasks given to them, and thus to allow the university to fulfil its responsibility to society and contribute to the progress of humanity. Freedom of speech is a personal right for all people, although the argument for free speech is not only that of self-fulfilment, but also the strengthening of democracy, truth and culture.

The fact that academic freedom is not a privilege that is accorded to the academic worker for his or her own sake has significance for the interpretation of the principle in individual cases. I have, for example, heard some professors argue in all seriousness that freedom from management is part of academic freedom. This is an example of how academic freedom is mistakenly looked upon as a privilege by many professors. In this connection it should also be stressed that academic freedom is more than a right; it also implies a duty or a responsibility. It is a duty to make the results of our enquiry known, even if this is highly unpopular. It means thus that if a professor were asked by the government not to publish a research report with results that were adverse to the government politics on a particular point, it would be his or her duty not to comply with the wish of the government.

The IAU defines academic freedom as freedom for members of the academic community - i.e. scholars, teachers and students – to follow their scholarly activities within a framework determined by the community in respect of ethical rules and international standards, and without outside pressure.

In the US, the 1940 Statement of Principles on Academic Freedom and tenure – which has a prominent po-

sition in the academic world – specifies those elements which together comprise academic freedom for college and university faculty – namely, the freedom to teach, research, and publish, and to speak extramurally. The current issues in the US regarding academic freedom seem to be political correctness, limitations initiated by church-related colleges, and allegations about denial of tenure because of controversial opinions.

The core of academic freedom is the right to conduct research and teaching without any interference or pressure, either from the institution itself or from the outside, be it political authorities or private stakeholders or patrons. It includes also "Lernfreiheit" for students. Academic freedom can thus be asserted both against the university and against the state. There are, however, limitations to academic freedom inside the institution – primarily by curricula and by conditions of appointment.

There are many breaches of academic freedom around the world, first of all in the non-democratic countries. The Human Rights Watch World Report each year give an account of violations of the principle of academic freedom by regimes bent on stifling critical analysis and dissent. A citation from the 2001 report gives the general picture: "The pursuit and dissemination of knowledge remained disproportionately dangerous activities as educators and their students were frequent targets of violence and repression sponsored or countenanced by regimes bent on stifling critical analysis and dissent. In the worst cases, these governments used intimidation, physical abuse, and imprisonment to punish campus-based critics, and, by example, to repress civil society. More commonly, governments pursued the same ends by silencing academics and censoring their teaching, research, and publication on important subjects."

There are also examples from democratic countries. Some of these individual cases will seem more like luxury problems compared to the description in the World Report. But one can see some rather subtle trends that in the long run may be damaging to the critical function of the universities and to the free basic research. This is a subtle shift toward caution in speech that seems to have been under way on campuses for some time, a shift likely to be exacerbated by today's new ventures. I am now talking about the problems connected with the steadily growing commercialisation of research.

In these cases the limitation of academic freedom is voluntary, as individual professors themselves have renounced some of their freedom, for example when it comes to publishing. But we have also seen examples of academic workers losing their job or being kicked out of research programmes because they have published material unfavourable to the sponsor.

Conclusion

According to its statutes, the Observatory aims to gather information, express opinions and prepare documents relating to the respect for and protection of the fundamental values and rights laid down in the Magna Charta Universitatum. The Collegium must consider how to interpret the Magna Charta when individual cases are brought to the Observatory. The Collegium shall also give general consideration to the clarification of the principles stated in the Magna Charta, and to do this in the context of universities in the twenty-first century.

Both university autonomy and academic freedom can be violated, but they can also be abused. The Collegium aims to initiate discussions regarding the boundaries between academic freedom and institutional autonomy on the one hand, and the boundaries between the university

and society, as expressed by accountability, on the other. But I believe that first and foremost it is the task of the Collegium to contribute to the necessary independence of universities from "all political authority and economic power."

More Autonomy, More Accountability

Luciano Modica
Rector, University of Pisa

Today, my task is two-fold. Firstly, as president of the Italian Conference of Rectors, I would like to congratulate the organisers for the inauguration here in Bologna of the Observatory of the Magna Charta Universitatum: this new institution will certainly become a focus of interest for the world of higher education in Europe and for all those, in the world, who believe in university autonomy and are ready to defend that concept. My gratitude goes to all the people involved in the project, in particular Fabio Roversi-Monaco and Ken Edwards, but also to the members of the governing bodies of the new institution.

As rector, and president of the Italian Conference of Rectors, I would also like to give a friendly welcome to all the colleagues here present, the rectors and former rectors from Italian and foreign universities who are ready to take part in the reflections concerning the important themes debated in this colloquium.

My second task consists in proposing to you some modest remarks about the theme of autonomy that or-

ganisers asked me to discuss here, autonomy seen as relative to accountability.

Of course, autonomy generally speaking is almost taken for granted, as one of the values of universities as a system. As a matter of course, autonomy has been usually connected to the intellectual freedom of scholars and also of students. Such a linkage is easy to spell, and has become a kind of banal truth. However, the meaning of the relationship between university autonomy and intellectual or cultural freedom – for professors and students - is not so easy to pursue in all its consequences.

For instance, over the last few years, autonomy has been more and more understood and used at the political, governmental and also academic level as a major factor in the transformation of higher education, as a tool for inducing change in universities.

While stressing much less research, such policies aim at improving the quality of university activities, teaching in particular. In some sense, autonomy evolved from a fundamental concept, grounding the institution, to that of an operational tool for university management. For all of us who have devoted our life to teaching and research, the original sense of the word "autonomy", its basic value must be defended. However, over the last few years, we have grown accustomed to an autonomy that has also an operational meaning. For me, this new meaning has to be added to the original one and should not replace it – even if, for outsiders, operations have already displaced values. Yet, for rectors and university presidents, autonomy remains a major factor of transformation for university improvement. Why? Because academic leaders need autonomy to affirm their own strategic views and sustain action in favour of the institution they govern; they also need autonomy to give substance to their projects. Thus it is natural that, for senior university leaders, autonomy has the double connotation of motivation and imple-

mentation. In other words, autonomy becomes a founding institutional value for academic operations.

Autonomy evokes responsibility as it frames the behaviour patterns of those who govern the institution, the rector, of course, but also the leading bodies inside the university, the senate for instance. In my opinion, the word responsibility has two faces. There is responsibility towards the inner core of the universities - the professors and students mainly. Traditionally, in Europe, this internal responsibility is managed through a democratic system of decision-making. Thus, rectors, senates and other collegial bodies are elected by professors, often also by students. As a result, the mechanism of internal responsibility is linked to democratic procedures - with all the problems inherent to that type of decision-making. As I am no political scientist, I will not insist on this aspect of the problem but rather look at the other face of responsibility.

Responsibility toward the outside means capacity to respond to society, as represented by what we usually call, today, the stakeholders of our universities, i.e., the state, government, students and their families, the companies, sponsors or the labour market. These two types of responsibilities, internal and external, need to be reconciled. How can we combine internal democratic decision-making with responsibility to outsiders who do not vote for the rector? There must be a link, for instance, in terms of the evaluation of university performance. So now I can underline the word "accountability" that describes well, although not completely, the necessary mechanism of assessment built on the virtuous circle autonomy-responsibility-evaluation. It is a circle because, in principle, – and, I hope, in fact – positive evaluation should lead to more autonomy and more autonomy to greater responsibilities. Hence, the title of my contribution.

Let me explore further what accountability can really mean in our university system. Is the word appropriate for describing the process of evaluation? Partially, yes, but not totally, as I already said. When consulting an English dictionary, I found two meanings for the term "accountable": the first is "obliged to account for one's act"; in other words accountable means an obligation to be responsible. The second meaning is "capable of being accounted for", in other words explainable. Note that both meanings are significant for universities and their rectors. The first responsibility, we have already mentioned. The second adds an important aspect to the evaluation process leading to accountability: the necessity of providing information, the requirement for communication, the need to explain and to report about our institutions. Universities have to be explained to the society outside, and we all know, as rectors or presidents, how extensive our commitment ought to be if we are to prepare and make available information and data concerning our institution. One could object that both meanings refer to the term "account" in order to explain accountability. Is this not a classical case of tautology?

Going back to the same English dictionary, I found many different meanings for the verb "to account" and for the substantive "account"; however, in all remains the basic tension between responsibility and information. To account means to give satisfactory reasons, or to give an explanation for; it means also calculation: the Latin root of the term computare translates as "to calculate"; to account thus refers to calculation, not only in numerical terms, but also in terms of reflection and analysis. "Account" can also evoke the idea of "liability"; indeed the account is another word for a financial record pertaining to a specific asset, which leads to the idea of liability. In other words, accountability suggests responsibility, information, liability, and financial recording.

As rectors, as institutions, we have to report about our financial management, to offer financial and quantitative evidence about our activities. However, over the last ten or twenty years, because of expanding higher education, because of diminishing support from government, financial accountability has restricted itself to the guarantee of student services that take account of lesser funding. Indeed, even if the total budget remained constant, the growing number of students reduced the resources available per person. Budgets are no evil but we have all learned – in Italy in particular – how important the management of funds has grown for quality improvement in universities. Paolo Blasi, my predecessor as President of the Italian Conference of Rectors, and I have always said that the true law on university autonomy was passed in Italy some eight years ago when the universities were granted financial autonomy, i.e., total responsibility for budget management and university accounts.

But there is a danger at that point: accountability, when merely a financial activity, assumes that there is a market and a consumer who can act as price regulators. I am no economist but I think this is true. However, who are the consumers in our system? It is very easy to answer - and to answer in a bad way. Students are consumers, we are told, so our clients are the students! This has been the usual answer over the last ten years. But, some thirty years ago, after more than eight centuries of academic history, nobody would have imagined such a reply. Contrary to the prevailing opinion, I do not consider students to be higher education consumers and university clients. Not entirely, at least. Of course students and their families are clients of the services provided by universities; of course when a student enters a library, he or she uses it as a customer requiring an efficient and effective service. The core of our activity, however, does not consist in servicing the students but in educating them, a

process based on interactivity between teachers and learners. Indeed, professors and students take part in a common process; they both sustain the educational action. Hence, they are all accountable for it; so, if accountability means running the organisation and deciding about its finances, the focus of responsibility cannot lie only in the university leadership, in its capacity to communicate aims, results, outputs, i.e., to inform about university activities.

True, more autonomy leads to more accountability, but I object the moment this extra responsibility centres on an excessive attention to service. I know of a book by two well known experts in higher education research, Lee Harvey and Peter Knight; they report from a research paper in which they underline that, if accountability has a variety of nuances, its main characteristic is to show adequate action in relation to set goals (fitness for purpose), thus meeting the legitimate expectations entertained by stakeholders as to the product proposed. Outsiders need explanations to understand, they need to receive information that makes sense to them – for they have the right to be accounted to. Personally, I like this approach as, in its formulation, it does not speak about money or finance. It only refers to the necessity of explanations demonstrating the process of education, not only in computational terms but also in terms of responsibility. In brief, accountability is usually linked to public information and to judgements concerning the fitness, the soundness or the level of satisfaction achieved.

I would like to conclude with a few remarks on the way accountability relates to governance, to university management. Historically, universities are collegial organisations. What does this mean? It implies a system of sharing in decision-making, we said, a system in which there is a risk of self-reference, a temptation to determine action in a self-contained manner, a danger of self-justi-

fication as far as the system is concerned. This traditional risk could be obviated by hiring external managers to run the institutions, but this could be even more threatening for university development. Therefore the collegial system should be kept, but in such a way that it supports accountability, i.e. institutional and personal responsibility.

Collegiality, in the past, manifested some conservatism, expressed by the professors' rights to all types of traditions – some very beautiful and relevant, but not all. This does not build a strong and dynamic image of the institution in the public. In fact, accountability requires a new collegial approach, not based on secrecy but on openness and transparency, i.e., on information and communication. Such an approach calls for team work rather than individual action. It also calls for professors who focus on students, for students who focus on learning. All this entails responsiveness rather than defensiveness, innovation rather than conservation. As a result, accountability can only fit a system of university governance if management centres on change processes, on continuous improvement, on better reflection procedures, on research into creative accountability. Such are the key factors for enhancing the reality of autonomy and its guarantee in the future. Indeed, only a correct understanding of accountability will protect university autonomy and, as a consequence, defend the universities as institutions, the institutions we believe in and work for.

Institutional Autonomy between Myth and Responsibility

Sjur Bergan
Council of Europe, Strasbourg

I welcome this opportunity to contribute to the inauguration ceremony of the Observatory of Fundamental University Values and Rights in Bologna, and I am particularly pleased to do so as a representative of the Council of Europe[1]. The autonomy of higher education institutions and academic freedom are at the heart of democratic society, and they are interrelated: a democratic society is hardly conceivable without institutional autonomy and academic freedom, but neither can institutions and academic staff be truly free in non-democratic societies. Autonomous higher education institutions are therefore also fundamental to the overall concerns of the Council of Europe: democracy, human rights and the rule of law. In this context, it is important for the title of the Observatory to include a reference to values, since defining and defending values is one of the

1 The author wants to thank Nuria Sanz, David Crosier and Angela Garabagiu for valuable discussion in the writing of this article.

main tasks of universities as institutions playing an important role in developing the moral and ethical reflection without which democratic societies would cease to develop.

Autonomous universities are an integral part of the cultural heritage of Europe, an aspect that we have had an opportunity to develop in a previous Council of Europe project on the cultural heritage of European universities[1]. One of the meetings of the project was held in Bologna, in July 2000. Universities are among the very few institutions that have survived in continuity since the Middle Ages, and they have managed to do so not only by redefining their role in a changing society but by helping to change society and by finding the right combination of detached distance and active involvement. This heritage is at the basis of the Magna Charta Universitatum and of the new Observatory.

Since we are celebrating the inauguration of the Observatory, it would be tempting to quote Henrik Ibsen: Jeg sprøger kun, mit kald er ej at svare[2]. For those less familiar with nineteenth century Norwegian than twenty-first century English, this translates, albeit less poetically, as "I only ask, my vocation is not to reply". However, I realize that in view of the discussion arising from a recent

[1] The project was part of the "Europe, a Common Heritage" Campaign, coordinated by the Council of Europe's Cultural Heritage Division, and the university heritage project was a joint effort by the Council's Cultural Heritage and Higher Education and Research Committees, as well as one of five transnational projects funded jointly by the Council of Europe and the European Commission. An overview of the project will be found in Nuria Sanz and Sjur Bergan (eds.): *The Cultural Heritage of European Universities* (Strasbourg: Council of Europe Press, forthcoming).

[2] Henrik Ibsen: *Et rimbrev* (A Letter of Rhymes), written to Georg Brandes.

paper on higher education governance for the Council's Higher Education and Research Committee[1], I will also have to suggest some answers, which I will leave for the end of this article.

The Myth

Although I do not pretend to use the term "myth" in the scientific sense, it might be useful to recall that the same myths tend to reappear in various circumstances and cultures, all of which identify with them. They may take slightly different forms, and the contents may also change somewhat, but the core elements recur. In addition, myths die hard and more often than not they contain a grain of truth. It is therefore interesting to look at what we may call the myth of university autonomy before considering how it is tempered by reality and responsibility.

The mythical academic is someone who follows his (unfortunately, less often her) own convictions, interests and priorities without outside interference[2]. One story has it that a professor at a British university some time in the 1960s was asked why he was working on Icelandic, a language understood by few but its 250,000 native speakers, and he was given to understand that there were more useful things he could spend his time on. His answer was a simple "I beg your pardon, this is a university". There was no attempt to refer to the cultural treasures of Icelandic, such as the Sagas and the Edda, nor to

[1] Document CC-HER (2001) 28, submitted to the 2001 annual session of the Council of Europe's Higher Education and Research Committee (Strasbourg, 11 – 12 October 2001).

[2] An eloquent defence of which may be found in R.M.W. Dixon: *The Rise and Fall of Languages* (Cambridge 1997: Cambridge University Press), in particular pp. 116-121.

the value of cultural and linguistic diversity , because the professor saw no need to justify what a university does. Crudely put, the myth may be summarized as "you pay, I do the rest".

It may well be argued that what has just been described concerns academic freedom rather than university autonomy, and this is undoubtedly true. However, it is a part of the myth that it does not distinguish between these two related but distinct concepts, and that the myth describes university autonomy in similar terms. At least in a European context, the myth emphasizes the role of the state in financing the university and the absence of any state role in running it. The state pays and then leaves the university to set its own priorities.

The myth is less clear when it comes to relations between the higher education institution and its staff, though the balance tends to be toward as little interference as possible. At least in the countries of former Yugoslavia, this has translated into a weak central authority of the university and a high degree of faculty independence, including the recognition of faculties as independent legal entities, though the background for this may not solely be a concern with the individual freedom of academic but rather the fear on the part of Titoist authorities of the collective strength of the academic community[1].

The myth could perhaps also be described in terms of five freedoms. The first is freedom of research: no university or individual academic should be forced to refrain from doing research because of outside considerations.

[1] This argument was put forward forcefully by Professor Branko Jeren, Rector of Zagreb University, in the closing discussion at the inauguration ceremony of the Observatory. In the draft higher education law for Kosovo, which the Council of Europe has recently elaborated at UNMIK's request and in accordance with UNMIK policy, faculties will no longer be separate legal entities.

The second is freedom of teaching, and the two are closely linked, as research-based teaching is one of the fundamental aspects of the European university heritage. Therefore, researchers should not be forced to teach students in contradiction with the findings of their research[1]. The third, strongly connected, is the freedom to publish research results, while the fourth is the freedom of cooperation: universities as well as individual staff should be free to seek cooperation partners as they see fit. These four freedoms are closely interrelated, they are generally agreed upon and they apply equally to institutions and individual staff. The fifth freedom is more controversial and more contradictory: it is what I would term the freedom from administration. Thus, it is negative rather than positive, and it applies to individual staff more than to institutions. While the research and teaching of individual staff will presumably be more productive if they are freed from administrative duties, the university as an institution or a collective body has every interest in taking care of its own administration since outside administration, e.g. by a Ministry, would imply loss of university autonomy.

The Anti-myth

In dialectics, if there is an A, there is also an anti-A, ultimately leading to a synthesis of the two. Let us therefore

[1] This has not always been the case. At many sixteenth-century universities, scholars were obliged to transmit the sacrosanct belief of Antiquity in their lectures while arriving at quite different convictions through their own research in areas like natural sciences and technical disciplines, cf. Hilde de Ridder-Symoens: "The Intellectual Heritage of Ancient Universities in Europe", in Nuria Sanz and Sjur Bergan (eds.): The Cultural Heritage of European Universities (Strasbourg: Council of Europe Press, forthcoming).

see if there is an anti-myth of university autonomy. If there is, it is in the form of direct state governance of, or at least interference with, higher education institutions. The clearest example in Europe since World War Two is the 1998 Serbian Law on Universities, which stipulated that Rectors and Deans be appointed by the government and that the state would in general run the universities. Many Serbian academics, including the present leadership of the Serbian Ministry of Education as well as of the Serbian universities, took a clear stand against this aberration and suffered the consequences. Some of the academics that were sacked or "voluntarily" left the Serbian universities in opposition to the law established the Alternative Academic Education Network (AAEN), which played an important role in keeping the academic community alive in the final years of the Milosevic era and in preparing its resurgence in post-Milosevic Yugoslavia. The 1998 Law was also roundly condemned by the international community, admittedly at considerably less risk[1].

A second example of the anti-myth was provided on the first day of the opening ceremony of the Observatory, when the Comenius University of Bratislava acceded to the Magna Charta Universitatum, something that the then Czechoslovak government had prevented it from doing in 1988.

Another example is provided by the institutions belonging to the religious (i.e. fundamentalist Protestant) right in the United States, such as Oral Roberts Universi-

[1] Condemnations included those of the CRE and the Council of Europe's Higher Education and Research Community; the reference for the latter is CC-HER (99) 28. It is worth noting that since education is a republic rather than a federal responsibility in Yugoslavia, the 1998 Law only applied to Serbia and not to Montenegro. Further information on the AAEN may be found at http://www.aaen.edu.yu.

ty[1], which seek to ensure that their students are protected from views that could challenge their faith in Creationism or their allegiance to the Republican right wing. This, however, is less an example of lack of university autonomy than abuse of it, and it should perhaps above all be used as a rare illustration of university autonomy combined with a relative lack of academic freedom. It should also be underlined that the latter is institution-specific rather than system-related, as the practice of Oral Roberts has little to do with that of Harvard, Stanford, Berkeley, MIT or other top US higher education institutions.

A particular example is Kosovo, where UNMIK, representing the international community, is working to re-establish institutional autonomy after the abuses of the Milosevic era and its mono-ethnic university. Kosovo is therefore an example of a temporary administration which does not claim to honour the principle of university autonomy but which uses its present powers to reform the Kosovo higher education system by introducing new higher education legislation – an effort of which the Council of Europe is a part – modern university administration, a degree system conforming to the model of the Bologna Declaration[2] and quality assurance mechanisms, and all of this with the stated goal of introducing

[1] The mission statement of the Oral Roberts University may be found at http://www.oru.edu/university/mission.html. It emphasizes that "Oral Roberts University is a charismatic university, founded in the fires of evangelism and upon the unchanging precepts of the Bible. The Board of Regents and the president and chief executive officer are dedicated to upholding the University's founding purpose"

[2] The text of the Declaration may be found at http://www.unige.ch/eua/. For general coverage of the Bologna Process, I would recommend the extensive web sites of the Council of Europe http://culture.coe.int/her/eng/bolognaprocess.htm, ESIB – the National Unions of Students in Europe http://www.esib.org/prague/index.htm or the European University Association http://www.unige.ch/eua/.

university autonomy and a system that offers higher education provision for all qualified candidates in Kosovo, regardless of their ethnic, religious or linguistic background. At the moment, the most serious obstacle is ensuring higher education in languages other than Albanian within one higher education system for Kosovo[1].

It may also be pertinent to raise two problems at this point. The first and most serious concerns the system found in some European countries whereby the Ministry of Education, the government or the sovereign de jure appoints Rectors and some other university officials following their de facto election by the academic community. In most cases, this is a theoretical – one would be tempted to say "academic" – problem only, as in reality the appointments honour the outcome of university elections. Nonetheless, the potential for abuse is clearly real, in at least two ways. First, if the political circumstances change, a future undemocratic regime would not have to bother to change the legislation; it would be sufficient to change established democratic practice and still appear to be complying with the letter of the law. Second, these examples form established democracy and autonomy while being unencumbered by their spirit. Would it not be worthwhile for the countries where such de jure practice is still to be found to reconsider their laws, not because of their current practice but as a safeguard against potential future abuse?

[1] "One system" implying one law, one authority (currently UNMIK; there will be a transfer of power to a Ministry of Education after the elections on November 17, 2001), one degree structure and one quality assurance system, but very possibly a variety of higher education institutions within this system, one or more of which could teach in Serbian or other minority languages in Kosovo, or indeed in English or other foreign languages.

The second problem concerns the position of university officials, especially the Rector and Dean. Clearly, a weak Rector or Dean is of little benefit to the institution, but what about the overly dominant variety? What is the right balance between authority on behalf of the institution or faculty and a capacity for consultation within it? How can a Rector best lead and listen, represent and consult?

Elements of Responsibility

Let us now compare the myth with reality, which can only be a perfunctory exercise within the space of a few pages. Institutional autonomy is a complex topic, and it will be one of the major tasks of the Observatory to explore its many facets. Some elements of responsibility can, however, briefly be discerned.

We have already touched upon the responsibility of higher education for the development of a democratic society built on active participation and awareness of democratic values. A linked element is the increased demand on public service, and it does not matter much whether the university is a public or a private one. Whatever the "ownership of the means of research and teaching", to borrow a phrase from an outmoded ideology, the perception is that of an institution with a public function, a responsibility toward society and subject to a general requirement of fairness and transparency, e.g. in admission procedures, grading examinations and hiring of staff.

These considerations lead straight to an emphasis on the accountability of higher education. This aspect has been extensively dealt with both by the programme of the inauguration ceremony and in higher education literature, so I will limit my comments to two points. First, quality assurance, which is one of the key elements of the

Bologna Declaration as well as of the communiqué adopted by the "Bologna" Ministers of Education at their conference in Prague in May 2001, is now a key concern of higher education policy. One crucial question is who should carry out the evaluation, and who should define the criteria for it. Should the universities evaluate themselves, or at least be evaluated by staff from other universities, or should they rather be assessed by outside agencies? We find both models, exemplified on the one hand by the EUA Institutional Evaluation Programme[1] and on the other by national quality assurance agencies. There are good arguments in favour of both approaches, and it may well be argued that a combination of the two will give the best overall results. If this is so, what is the right balance between internal and external assessment?

Second, some effort should be spent on answering the question "accountability – to whom?" To society, certainly, but "society" is a nebulous concept that needs to be further clarified in order to be meaningful. For public universities, and to some extent also private ones, accountability is to public authorities represented by, among others, the Ministries responsible for higher education, national or regional legislative assemblies, political parties and their private bodies, who may choose whether or not to hire their graduates or make use of their competence in research and teaching, as well as to future, current and past students and staff. In this context, I would like to insist that students should not be seen as clients but as members of the academic community. The difference is far more than semantic: it is crucial. Whereas clients shop for the best offer at the lowest price and therefore easily move from one provider to another without an interest in either, members of a com-

[1] http://www.unige.ch/eua/

munity share responsibility for and a stake in the development of their community. Whereas dissatisfied clients leave the shop, dissatisfied members stay to reform their community and leave only in desperate circumstances, in which case we talk about emigration. Universities are therefore accountable to their students but the students share responsibility and are in turn accountable to society as members of the university.

Public policy is a further element of university responsibility. The university cannot lead an existence in isolation from public policy, but at the same time it should not bend to public policy like a straw to the wind. As a former university administrator, I have recollections of adjusting not only annual budget proposals but also strategic plans to priorities that emerged from the latest government position papers without much consideration of the longer-term implications of the adjustments or whether they were in fact consistent with the institutional policy of the university. Some adjustment is of course called for, but the decision to adjust should be a conscious one, and it should be motivated by a sustainable commitment extending beyond the annual budget.

The next in this chain of interlinked elements of responsibility is therefore the quest for funds, where it is important to bear in mind that strings are attached not only to public purses, but also to private ones. What conditions are there for funding of research and teaching? Are funds given for areas in which the university has a conscious interest, or are new courses developed simply to attract funds? Is research funding subject to limitations on publication of the results and, if so, are these limitations acceptable? The university needs substantial funding to fulfil its tasks; increasingly these will have to come from a variety of sources. While there may be virtue in poverty, such virtue may not bring many results in terms of research and teaching. The point is therefore not that

universities should necessarily refuse funding but that they should have a conscious policy of what kind of funding to accept on what conditions, and that the Observatory could contribute to such a discussion.

Universities are European and international institutions par excellence and therefore also have a responsibility with regard to international developments. To take just one example, the Bologna process of higher education reform is the most important and comprehensive policy process in Europe for many a decade. While universities may theoretically be free to ignore it, e.g. by insisting on keeping "long" one-tier degrees[1] and refusing to issue Diploma supplements, they would fail in their responsibility to their staff and students as well as to the society of which they are a part if they did so. For a university to choose not to be a part of the European Higher Education Area would mean that its students would find it more difficult to move around because their degrees would be less easily recognized, and that its staff could encounter some of the same obstacles to mobility as its students with "Bologna" degrees. This is not to imply that universities are left no leeway: the Bologna process is a framework which leaves ample room for adaptation, but the general direction is nonetheless very clear.

A particular challenge in the United States is known as political correctness, which designates what many see as a severe constraint on teaching, research and publication, not through any law or formal regulation but through a particular form of peer pressure which aims at prevent-

[1] To the extent that higher education institutions have a choice as to the degrees they offer. While the degree structure is decided by the Ministry responsible for higher education, these may leave universities the option of choosing between different degree structures, as seems to have been the case in Russia at least in the early part of the 1990s, possibly as a transitional measure.

ing the expression of views contrary to a narrowly defined list of acceptable views. While the extreme form of political correctness (PC)[1] may be peculiar to the US academic scene, elements of it can probably be found also in Europe, where peer pressure and self-censorship may prevent the expression of unpopular views even if backed up by personal research.

The issue of political correctness does lead, however, to the wider issue of the ethical and moral responsibilities of higher education. Even if the academic community tends to give a wide interpretation to the freedom of research, teaching, publication and expression, this does not imply that "anything goes". Is the revisionist historian protected by academic freedom or, if (s)he is employed by a university, institutional autonomy? Is a university free to sponsor a research programme in any discipline, or individual researchers free to carry out the programme, regardless of possible ethical misgivings? It is probably not difficult to agree that the answer is negative, but the current discussion on cloning illustrates that the boundaries between the acceptable and the unacceptable are difficult to draw. The debate on euthanasia is perhaps not research related, but some of the key actors are former medical students and perhaps also current academic staff, and the debate again illustrates a lack of agreement on a fundamental ethical issue.

Nor are the boundaries static: what is acceptable to one age may not be to another. Recently, the University of Oslo returned two skulls from its anatomical collection to the families of the victims. The skulls were those of two of the executed leaders of a Sámi uprising in northern Norway in 1852, and it was now high time to correct the political and racial discrimination of previous

[1] It is perhaps an indication of the scope of the issue that PC, at least in the US context, no longer means only "personal computer".

generations. The ethical and moral responsibilities of higher education institutions, staff and students are of course not limited to refraining from doing things; they also have a positive responsibility to lead the way in ethical and moral reflection. An example of collective action in this sense is the university pension funds that withdrew their investments from companies working in apartheid South Africa, whereas one among many individual examples is the philosopher Fernando Savater, who is a leading voice against violence and terrorism in the Spanish Basque country[1]. The case of Savater can also illustrate the responsibility of higher education in a multicultural perspective, in an age where it makes little sense to see education, heritage, history, political science, physics or any other discipline in a purely national perspective, and in which few if any universities worthy of the name employ only staff from the country in which they are located[2].

If the examples given seem reasonably clear cut, they are nonetheless intended to show that the line of distinction between the "high road" of the moral and ethic responsibility of higher education and the "low road" of political correctness is not crystal clear. At what point does a legitimate concern for defending democratic values veer into the lane of political correctness? Is the right of an academic or an institution to teach, research or publish on any topic of its own choosing and absolute or a relative right?

A final element in this far from exhaustive list of elements of responsibility is much more prosaic but nevertheless very real: it concerns the total workload of aca-

[1] See Fernando Savater: *Perdonen las molestias* (Madrid 2001: Ediciones El País).

[2] Ironically, the concept of "national education" nevertheless survives in the title of some European Ministries.

demic staff and the distribution of their tasks. In particular, many academics worry that the load of administration comes in the way of their primary work and that research is relegated to whatever hours and energy are left when the teaching schedule has been completed. On the other hand, the institution surely has a responsibility to ensure a reasonable range of teaching for its students as well as to seek to give as many qualified young – and not so young – people as possible an opportunity to take part in higher education. It also has an institutional interest in taking care of its own affairs rather than leaving them to an outside body, and it has an obligation to abide by a number of general labour regulations and other laws, ranging from safety to equal opportunity. Since research is less easily quantifiable and the consequences of downsizing the research effort will not show immediately, the temptation to leave research for better times is often too strong to resist. Do autonomous institutions have a specific duty to ensure the core parts of its mission, and what should the consequences be in terms of institutional autonomy if they fail to do so?

Autonomy in the Age of the Sound Bite

The challenges facing the Observatory are many and multifaceted. Some of them can at this stage best be formulated as questions, as we have seen, and one of the most serious concerns long-term vs. short-term priorities and considerations. How can university autonomy be maintained when the horizons of policy makers are limited by the end of their electoral mandate? How can institutional policies best be formulated under such conditions, and what should they aim to achieve? Put more directly: how, in the age of the sound bite, can it help defend and define an institution that by definition takes the long view?

The ivory tower may be a popular stereotype of the university, but it is hardly consistent with the idea of the university as a part of the European heritage and it is certainly not a model for university autonomy. Rather, the university has to be fully involved in modern society to ensure its own autonomy, which is also linked to its relevance. If no man is an island[1], the same is true for higher education. The university should interact with society and its numerous groups and individuals, and not isolate itself from society.

No single institution is more important than the university for the defence and development of institutional autonomy and academic freedom. However, the university is not alone in defending these values, nor can it be alone in putting them into practice. Among the participants in the inauguration ceremony of the Observatory were people who had first-hand experience of what can happen when the state authorities do not share the university's aspiration for autonomy, as shown through the examples of Comenius and Belgrade. University autonomy can only come about when the academic community, civil society and political authorities share this aspiration.

This is the background for the Council of Europe discussion document on higher education governance. In particular, it arose from the experience of the Legislative Reform Programme of the Council of Europe, which over a period of some eight years (1992 – 2000) sought to assist Central and Eastern European countries in bringing their higher education legislation into line with European standards, of which institutional autonomy and academic freedom are pillars. This is a discussion document, and the Higher Education and Research

[1] "No man is an island, entire on itself; every man is a piece of the continent" John Donne, Devotions.

Committee may well want to make changes to it. The Council of Europe has no intention of embarking on a collision course with the Observatory and the EUA, but it may be useful to clarify some of the points that seem to cause concern and possibly confusion.

Standards is a vaguer term than may be suggested by its legal connotations. Standards can indeed be laws, conventions or set rules, but they can also be looser instruments like codes of good practice or simply a common understanding[1]. The purpose of any text, statement or declaration should not be to restrict institutional autonomy, but rather to have European governments enter into an explicit commitment to it. I feel uncomfortable when I hear arguments such as "autonomy is something the universities themselves should take care of" (italics added) because the statement betrays a defensive attitude which in its turn reveals an awareness of the fact that reality is somewhat more complex. University autonomy is something for both universities and public authorities, and in a democratic society they should define and defend it together.

The Council of Europe is therefore committed to cooperating with the Observatory and the EUA in this endeavour and to making its modest contribution as an intergovernmental organization encompassing all of Europe, and whose Higher Education and Research committee provides a platform for both academic and gov-

[1] In the 1780s, the quality of Ottoman-produced gunpowder had declined so dramatically that gunpowder was imported from abroad while new factories were built to relaunch Ottoman gunpowder production toward what was commonly referred to as "European standards", cf. Philip Mansel: Constantinople – City of the World's Desire 1453 – 1924 (London 1997: Penguin), p.254. "European standards" in this context were neither a law nor an ISO-type industry standard, but simply an aspiration for high or at least improved quality.

ernment representatives[1]. Such an effort will enrich the agenda of both the Observatory, the EUA and the CC-HER, and it will benefit the European academic community.

This again ties up with the role of the Observatory whose inauguration we celebrated in Bologna. I would like to see a more active role for the Observatory than its name implies, at least to northern European ears. Maybe it is appropriate that universities should gaze at the stars, but they should be much more than observers. I would rather like to see the Observatory in the role of a forum and a driving force for university autonomy. The CC-HER and the Council of Europe would welcome such a role for the Observatory and would offer their cooperation in contributing to it.

[1] Unlike most Council of Europe committees, which are governmental, the CC-HER is made up of one academic and one government representative of each of the 48 states party to the European Cultural Convention.

Yugoslavia: from Autonomous Faculties to University Autonomy

Prof. Marija Bogdanovich
Rector, University of Belgrade,

First, I would like to give you some information about universities in Serbia. There are six universities in Serbia (one of two republics of SR Yugoslavia) with 83 faculties, 162,000 students and 12,000 teaching staff. Universities are organized in clusters of faculties according to the nature of disciplines: medical sciences; natural sciences and mathematics; biotechnology; technical sciences; humanites, and social sciences. Our universities are not located on campuses (except the University in Novi Sad) but the faculties are located in cities, reflecting the time when each of them was established, with each university looking for the most appropriate location. The oldest and the largest is the University of Belgrade (163 years old) with 72,000 students and 5,500 teaching staff, whereas the others were established between 1960 and 1976.

Next, I would like to consider the subject of our discussion. The essence of the Magna Charta Declaration, which is the only one signed by university representatives (other declarations were signed by government ministers as a political measure), is the strong belief that the future

of mankind depends on science and culture, and that the investment in the continual development of education must serve society as a whole. To fulfil this goal, universities must be independent in research and teaching, liberated from all political, economic or other kind of pressure.

Closely connected with this, and the essence of university autonomy, is its freedom to choose its teachers based on their competence, and its sovereign choice of teaching contents based on rational scientific considerations.

The next aspect of university autonomy is its self-governance, its freedom to elect academic managerial bodies, again without any political interference or any other outside pressures. This goal can be achieved to a great extent, in highly democratic countries.

The last dimension of university autonomy is its financial independence. The possession of legacies by the university, the alumni association, funding by benefactors, etc. are possible ways for the university not to be exclusively dependent on government funding. Overall, access to knowledge must be unconstrained, and only an autonomous university is a guarantee of this.

Bearing all this in mind, it is possible to show the nature of autonomy of faculties and university autonomy in Serbia. Individual faculties within the university may be considered as parts of the university aiming to deliver specialized knowledge. This being accepted, a faculty should exercise the very same autonomy as a university in respect of the society. On the other hand, faculties as a constitutive part of university are assumed to reflect principles and policies accepted at university level.

Universities in Serbia have experienced a very hard time in terms of autonomy. Until October 2000 universities in Serbia were rigidly controlled by government. This control was even more rigid from 1998 on, imposed

by the retrograde University law. Under this law, the university completely lost its autonomy in the election of academic managerial bodies (Rectors and vice-Rectors, Deans and vice-Deans) which were appointed by the government without any influence by the university community. Also, deans acquired the full authority to choose teaching staff, again without any impact on the part of scientific bodies and teachers of the faculties. This situation brought the university under strong political control not only in the domain of management but also, through this channel, in the domain of research and teaching. For example, one of the consequences was that over 200 colleagues on the teaching staff at the University of Belgrade were expelled from their faculties. Fortunately, this period is behind us.

Today, the university community elects the Rector, and faculties have complete freedom to elect Deans. Faculties, as parts of the university, are completely independent in the selection of teaching staff, salaries, evaluation procedures, and curriculum development; also, they are independent from the university and from outside pressures in student policy: selection and admissions, tuition fees, etc. Faculties are entirely independent in financial matters on the university, but highly dependent on the government. Each faculty relies on the government budget which is very limited, although some of them can earn extra money from projects for enterprises. Since the country is very poor and there is no developed market at the moment, it is difficult to do much in this respect. Also, it should be noticed that humanities and basic sciences are in a worse situation in comparison with law and economic sciences.

There are, of course, some important links between faculties and the university. At the university level, we have the Scientific Council and University Board. Each faculty is represented by its dean on the Scientific Coun-

cil, the size of which depends on the number of faculties belonging to the university. At this level, deans discuss study plans on the base of the proposals of each faculty, changes to these plans, the promotion of teaching staff (thus setting standards), the acceptance of doctoral theses, the promotion of Ph.D. candidates, etc. Also, some important student questions are the subject of discussion at this level: the number of students that will be enrolled in the first year, the level of fees, the procedures by which student obligations are regulated, etc. The University board (15) consists of delegates from the university community (9), delegates from social community (3) and student delegates (3) – altogether 15 at the moment. It is to be enlarged in the near future, keeping the same proportions of delegates coming from different areas. This Board is the highest managerial body of the university which approves certain important decisions of the Scientific Council, for example, to join the Association of Universities of Serbia, to be cofounder of scientific centres or organizations, to accept the final financial report, etc.

Faculties function in this way, with more or less freedom, and at times with very little freedom, as already mentioned. But there are different kinds of cooperation among faculties. They are connected by joint projects, many members of teaching staff teach in more than one faculty, etc. The problem of the reform of our university is considerable. First, none of the faculties wants to concentrate funds at the university level. Each of them prefers to have control over their funds, as they are used to having this control. Furthermore, the cities are big, the faculties are not concentrated in campuses, and it becomes very difficult for professors and also for students, to move from faculty to faculty to teach or attend lectures. In this period of transition, which is very difficult for a poor country like mine, the demands to renew libraries, laboratories, electronic equipment, and instru-

ments for field research are pressing. Without improvements in this respect and also in the material standards of teaching staff and more jobs for those who graduate, we are still in a situation in which the best academic people leave the country. We only hope that in a few years, this country will enjoy better economic conditions and, until that time, the university is ready to take all the necessary action to find the solutions and implement those elements of the reform of higher education that are in accordance with the Bologna declaration. It takes time, energy, goodwill and funds. We have the first three elements and hope to receive the last one.

Kosovo: From Autonomous Faculties to University Autonomy

Michael Daxner
International Ad,inistrator, University of Pristina

The University of Pristina (UP) was founded in 1970 and rapidly developed as a regional institution with a broad constituency, both Kosovo-Albanian and Kosovo-Serb[1]. It enjoyed the relative freedom of the universities in that period of the Federal Republic of Yugoslavia, soon becoming a member of the Association of European Universities (CRE), and was well placed to become a respected institution, second only to the ranks of Belgrade, Zagreb and Ljubljana.

[1] The University of Pristina was founded 1970; after the war, the institution continued as the University of Pristina, and will be governed by the future law (Regulation on Higher Education) as the main public institution of higher education in Kosovo. There will be, ad interim or for a longer period of time, an institution for the Serb education community in Kosovo, which will certainly not bear the name University of Pristina. The establishment of more higher education Institutions in the near future is likely to be approved, either by the UNMIK/Jias administration or by the future Ministry of Education.

The political history is well known. Following the ups-and-downs of the FRY macro-climate and Serb higher education policies, the UP became more and more polarized between the K-Albanian majority, as a constituency that wanted nothing more than to emancipate itself from Serb suppression, and the K-Serb clientele, who regarded the UP as their property and territory. The substrate of this history has been analysed and published widely, so I will comment only on recent developments since July 1999[1].

Immediately after the war, the premises of the UP were reoccupied by the K-Albanian students and staff, while the Serbs, from Kosovo and other parts of the FRY, left the campuses. This happened not without force, mutual threats, the vandalizing of premises, damage or theft of equipment, and certainly under a violation of all the rules which would have been in place in a civil society, but such a society was non-existent and there was a state of emergency. A sharing of the Rector's office between the K-Albanian Rector and a K-Serb Vice-Rector did function for a few weeks, then the UP came under K-Albanian leadership.

Since the violent expulsion of K-Albanians from Mitrovica North, there have been two Faculties of Mining, the southern part under the UP administration, the northern part under UNMIK, but practically detached from its old university. The K-Serbs, who fled from Pristina and its extension, namely in Prizren, Djakovica (Gjakova), Urosevac

[1] On 27 July 1999, the CRE, now EUA, paid a first visit to Pristina. This was when the UP was governed by the present rector and a K-Albanian Vice-Rector, sharing the office with a K-Serb Vice-Rector, who soon moved away with most of his colleagues to Krusevac. The CRE Academic Taskforce organized emergency support and was influential in creating the function of an International Administrator, instead of an 'international rector', as proposed by the person in charge of education in UNMIK.

(Ferizaj), founded a “University in Exile” for several Faculties in Krusevac (Serbia), while other faculties remained, without the recognition of UNMIK, in Mitrovica North.

Behind these bare facts lies the whole tragic episode in the long history of intellectual conflict in and about Kosovo, and each element, including the particularities of each area and group involved. The whole background of the conflict, with its political, ideological, ethnic and scholarly dimensions, must be considered before a reliable and sound judgment about the accomplishments and failures of our policy in Kosovo can be made.

‘Our policy’ is primarily the policy of UNMIK, represented through the International Administrator of the University (IA), who is at the same time international Co-head of the Department of Education and Science. The local Co-head has practically no real involvement in academic affairs, because the early UNMIK wanted to keep the UP away from party politics (the local Co-head is a party-appointee), and make the Rector the natural counterpart of the IA. This is a questionable and imperfect solution, but certainly better suited to UNMIK’s political mission than other options[1].

[1] Cf. Documents quoted in Kooliqu (s.FN4); The role of the UP in the making of the conflict is mentioned in all the major histories, such as Noel Malcolm: Kosovo, London 1998; Tim Judah: Kosovo – War and Revenge. New Haven 2000; Petritsch, Kaser, Pichler: Kosovo-Kosovo, Klagenfurt 1999. I have contributed several accounts to the status of the UP, i.e. Michael Daxner: Den Kosovo-Konflikt aus der akademischen Welt heraus verstehen, gegenworte 6/2000 (Berlin 2000 BBAW), and M.D.: Bildungsgesetze und Bildungspolitik im Kosovo, eine erste Bilanz. Bildung und Erziehung 54. Jg., 2/2001, 207-233. As International Administrator, I have to balance the present legal situation between the applicable law and the preparation of a new structure. Since everything is ad interim, and in the squeeze between politics and the academic routine, some of these legal acts are quite limited in their range and significance for long-term development

I do not refer to all the procedures and formal rules under which the transformation and reforms of the UP were started, and are now being implemented. The IA used his delegated powers to accomplish four major aims:

1. to introduce a certain degree of autonomy, as laid down by the Charta of Bologna 1988
2. to establish the rule of law and internal regulation that would comply both with the Charta and the reintroduction of academic freedom and quality performance
3. to align the UP with the principles and rules of the European Area of Higher Education, as laid down in the Bologna declaration of 1999 and extended in the Prague Summit of 2001
4. to prepare the UP for self-governance in a competitive context under strict observance of European standards.

These aims were partly achieved, and are partly at risk or even threatened by the prospect of the self-government of Kosovo to come. Here is a short account of each goal:

1. the interim Statute of October 2000 is a first step away from the former Socialist hierarchy and overregulation, which was well adapted by the K-Albanians to their so-called parallel system (1989-1999). The main accomplishment was the introduction of an Administrative Board with executive functions and a broad range of competencies.
2. The UP adopted several rules, to which the IA added. This cleared the way for the adoption of European standards in organization, principles and strategies, leading to UP acceptance as a member of the CRE (EUA) and to its eligibility for TEMPUS.

3. Today practically all units of the UP are ready to implement the Bologna scheme (3-5-8, Bachelor/Master degrees) and some areas are already ECTS-compatible. The danger is that these accomplishments are being accepted rather superficially, and there are strong forces which will want to use them for a continuation of the outdated system under their control. On the other hand, UP is among the first public universities in Europe that can implement this scheme with equal support from the government and academic bodies. The alignment with Bologna should be turned into an active role in the process.
4. The law and the definitive statutes were drafted by the Council of Europe experts, with strong participation from inside the UP, accompanied by the IA and the legal advisers of UNMIK. Both drafts envisage a strong position for the UP in the future self-governed Kosovo under its Constitutional Framework Law. However, the position of the Minister is much stronger than it would be in a mature civil society, for both political and pragmatic reasons.

The parallel system declared its quasi-autonomy also through legislation. The 'Decree law' of 22 June 1994 replaced the founding law of 18 November 1968 and its many amendments[1]. Despite the fact that the parallel legislation created a unified legal personality for the UP (Art. 3), the power of the Faculties and Deans remained intact, as it was under the FRY system. This had consequences for the economic well-being of the Faculty, the divide-and-rule strategy of the deans, and the relatively weak position of the Rector. Without being a centralist, the IA issued an early instruction, in which the UP was declared the only legal entity, withdrawing any juridical autonomy from the Faculties, Higher Schools (colleges) or Departments. This implied the introduction of a cen-

tralized finance and accounting system, the first really transparent budget organization of the UP. A long story of faculty independence came to a quick end: the establishment of the Administrative Board and the central distribution of funds introduced certain indicators, and started to create modern budget management and procurement, with the result that the Faculty dictate was broken at a formal level. To establish a Central Laboratory Unit (CLU) is one of the aims of this strategy.

I know that in other countries, including former FRY Republics, the same problem has developed in a similar way. The logic of the old system was one which we cannot understand today, but in those days of third-way socialism, the closeness of Faculties to state-owned enterprises, along with additional funding from ministries other than the Ministry for Higher Education, had its advantages for the Faculty and the conformists among its members. You can also say that in this way faculty autonomy was a multiplier for corruption. I encounter the remnants of the old system whenever I negotiate with Serb deans in the North, where we try to come out of the dead-end caused by the 'University in Exile', and the conditions laid down for its return to Kosovo under circumstances which are not acceptable for the UNMIK mandate. The transformation process in the UP is, as I

[1] The Parallel System under the governments of Ibrahim Rugova was an attempt to establish a semi-legal, highly oppressed education system apart from the official Serb government. It was mainly financed from the K-Albanian diaspora, and, being formally functional, became more an ideological than a scientific instrument for the survival of the K-Albanian separatism and identity. Cf. Hajrullah Koliqi: the Survival of the University of Prishtina, 1991-1996, Prishtina 1997; Its achievements are being transformed from a story of resistance into one of heroism, taking account of the political impact of this parallel UP on the making of the militant opposition and, finally, the armed conflict.

said, almost complete, and shows only positive results when it comes to operations and procedures.

Unfortunately, the internal power, or the hidden curriculum, of the Faculties prevails. There is an informal pecking order, led by Law, Medicine and Economics. There are still admissions brokers, traders of diplomas and certificates, the promotion of the dean's next-of-kin, and other less edifying factors. But the Rector and his Vice-Rectors are now stronger than before, and therefore they cannot tolerate what was considered normal in the past.

The new law will promote the European standard for Faculties, Departments and Institutes. The real future of the new aligned structure will begin when the new 'Bologna-curricula' and ECTS take effect. I am not convinced that this model is the only valid one or even the best one, but European compatibility tops all other considerations. If the new self-government does gamble away the credit provided by the European university associations and agencies, then the UP will sink back into isolation and obscurity, which could also be true for other universities in the region. But if the new leadership opts for a regional solution, with the UP and their partners in Kosovo, then it might be that the geographical centre also becomes a model for reform. Sometimes it is good to have a civil government before becoming a real state.

University Autonomy in Romania

Andrei Marga
Rector of the Babes-Bolyai University, Cluj

In Romania, the acknowledgement and implementation of university autonomy was subject to an historic change in 1989. The first proclamation of post-Communist power, in December 1989, contained indeed a provision regarding university autonomy.

Some time afterwards, in 1991, the Romanian Constitution (Article 32) proclaimed that "university autonomy shall be guaranteed". At that time a group of intellectuals from the Baes-Bolyai University in Cluj-Napoca studied the Magna Charta Universitatum adopted in Bologna in 1988, the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education (1988), and other international documents, such as the university legislation of Italy, Germany, France and other countries. On the basis of their findings a concept of university autonomy was drawn up complying with the standards of other European countries and was proposed to the Ministry of Education.

This concept of university autonomy was based on the right of the university community to have full ruling

power, to assume competencies and responsibilities and to be academically free. This was supplemented by further specifications of university autonomy such as management autonomy, functional autonomy, organisation autonomy and financial autonomy. University autonomy constructed on these principles was instituted, as a result, by the Romanian Law on Education adopted by Parliament in 1995. Under this Law, university autonomy was proclaimed. The articles of the law established the autonomous decision of universities as being dependant on the so-called "national options and strategic orientations regarding the development of higher education, as governed by Romanian law" and on compatibility with the "national strategies and standards of higher education development". Of course, we must note that since university autonomy was absent from higher education during the post-war years, its reappearance required more than the filling in of legal gaps.

Since then, in Romania the practice of and the debate on university autonomy have become more complicated as a result of two major changes. On the one hand, the lack of more specific economic and administrative reforms in the early 1990s resulted indirectly in a number of universities approaching the task of university autonomy as an aim in itself. In actual fact, the less experience an academic community had in implementing university autonomy, the more separate the preoccupation for university autonomy became from that of performance. As a result, some universities that had come into existence less than ten years before, offered degrees for which they had no specialised staff. They set up many programmes and degrees without taking market needs into consideration. Some of them initiated ambitious programmes without having the necessary resources. On the other hand, the legal right to free initiative was perceived as the right to set up private universities. In the absence of ap-

propriate university legislation, private universities prospered as the economic legislation in force changed the structure of the Romanian university system.

Against the background created by approaching university autonomy as an aim in itself and by the proliferation of private universities on the basis of commercial legislation, the issue of university autonomy became complicated. The new laws that have since come into force, such as the Law on the Accreditation and Authorisation of Universities (1993), have not resulted in any better solution and have not changed the existing situation.

At the beginning of 1997 it became quite clear that university autonomy needed to be actively implemented in Romania, even in a context in which some academics were not ready to use it. Private universities needed encouragement, though some entrepreneurs mistook them for a lucrative business opportunity. The initial meaning of university autonomy as instrumental in consolidating performance had to be reiterated. The need arose to adopt the European framework of university autonomy, even if some invoked special circumstances in order to sustain inefficient policies. It became clear in 1997 that there was an acute need to apply the legislation in force, but also to issue new legal measures to enhance university autonomy.

Between 1997-2000 a series of measures were implemented in Romania by the Ministry of National Education that supported the effective implementation and consolidation of university autonomy. They had in view particular aspects of university autonomy, such as university property, the selection of governing bodies, student admission, the appointment of teaching and research staff, curriculum development, the use of state-allocated resources, the gathering and use of additional income from non-public sources, management, relieving

the Ministry of its centralised competencies, and international cooperation. After the adoption of the Law on Education in 1995, republished in 1999, the period between 1997-2000 was the second major phase in the assertion of university autonomy in postwar Romania.

What was actually accomplished in the period 1997-2000? As far as university property is concerned, the Romanian legislation provided that universities were the legal owners of the property legally held. Ownership of some buildings and further facilities was transferred from the State to the universities (in Constanta, Sibiu, Bucharest, Timisoara, etc.). Furthermore, universities were encouraged to purchase buildings and facilities, and the Ministry of National Education supported the Universities (as Costanta, Pitesti, Cluj, Iasi etc), to buy and to construct buildings.

Regarding the selection of the ruling academic bodies (senates and councils), rectors and deans, the legal provisions regarding the complete freedom of the academic community to elect its governing body was imposed. It must be noted that management criteria were considered foremost. (see OMEN nr. 4650/1999) When a misunderstanding of the concept of autonomy was identified, the Ministry initiated a functional improvement (see OMEN nr. 4653/1999) in some universities. The Ministry asked the universities to assume and exert their autonomy (OMEN nr. 4342/1998), to extend the autonomy down to the level of faculties, departments, and chairs (OMEN nr. 4342/1998), and to take responsibility for their functioning and competitiveness.

Regarding student admission, the old highly centralised system was abolished (see OMEN 19.976/1997). Universities became autonomous in decisions regarding enrolment numbers, entrance examination criteria, and examination dates. The Ministry no longer intervened in this process. Universities were authorised to decide the

number of paid study places – in addition to the study places funded by the state – and to establish admission procedures, (see OG nr. 54/1998).

The appointment of teaching and research staff was transferred to university and began to be emancipated from the so-called length-of-service criterion that so often proved to be an obstacle to the flexibility of the system (see OMEN nr. 4836/1998). For PhDs, the universities were authorised to bring in professors from abroad, and PhD candidates from abroad could serve as university appointed professors, subject to legislation.

Degree and curriculum development were also transferred to the universities, which were given financial incentives to develop majors with competitive curricula, and majors compatible with the needs of Romanian society and European guidelines. (HG nr. 645/2999; HG nr. 1213/2000). Universities were encouraged to differentiate through the creation of centres of excellence (OMEN nr. 3373/1998), which have more generous funding, based on competition. The appointment of PhD boards is now the prerogative of the universities (OMEN nr. 3461/1998). The question of standards was included in the university curriculum (OMEN nr. 3418/1998).

The distribution of budgetary resources became part of the global financial system according to the number of state-subsidised study places (OG nr. 66/1998). Thus, funding strategies have been devoid of any political influence, and subject to precise criteria, which are made known to the Rector's office in due time. The funding of scientific research became entirely dependent upon competition between projects (OMEN nr. 3093/1998).

For the first time, the possibility of autonomously raising and using additional income from non-public sources was legally recognised (OMEN nr. 3176/1998). A number of provisions were adopted to sustain complete university autonomy regarding the accumulation of

income from non-public sources through specific activities, i.e. education, research, services, and to give universities responsibility for raising and using such resources. Decisions concerning the use of the income from non-public sources were transferred to the universities, which are completely autonomous (OMEN nr. 4356/1998), without affecting budgetary allocations.

These provisions were also sustained by the implementation of the management autonomy of universities (OMEN nr. 3531/1998), that were authorised to develop, around the newly created positions of university managing director and faculty managing director (OMEN nr. 5647/1997; OMEN nr. 3334/1998), offices specialised in fundraising and the administration of resources. Together with the global funding scheme, the strategic university programme was introduced, which is considered by the Ministry of Education. Thus, funding is based on contracts between each university and the Ministry.

International cooperation became part of university autonomy, replacing the former centralised approach (OG nr. 60/1998; HG nr. 676/2000). The admission of international students became entirely dependent upon the universities (OMEN nr. 3266/1998 etc). Universities were authorised to set up branches of universities from other countries through a franchising system (OMEN nr. 3396/1998).

Finally, the Ministry was completely relieved from tasks which belonged to the centralised approach and these tasks were transferred to the administration of university national councils. As a result, study grants funded and managed by the ministry are now under the authority of the National Office for Study Grants Abroad (OG nr. 9971/1998). Foreign degree validation is now under the control of the National Centre for Degree Recognition and Validation (OG nr. 49/1999). Other new insti-

tutions include the Institute of the Romanian Language (1999), in charge of Romanian chairs abroad, the National Socrates Agency (1998) the National Curriculum Centre (1998), the Social Agency of the Students (2000), and the National Evaluation and Examination Service (1998). The Ministry required its agencies, centres, offices, and services to assume and to exert their functional autonomy (OMEN nr. 5051/1998) and to be responsible for their decisions.

It is taking time to get used to university autonomy. In 2001 drawbacks in university autonomy were perceived both with regard to the Ministry and individual universities. This year at the Ministry there were blatant attempts to limit university autonomy. Attempts were made to modify the global funding scheme in order to renounce publicly stated criteria and to regain the traditional political manoeuvring position of the Ministry. Efforts were made to withdraw resources and to redistribute them without regard to official criteria. Furthermore, attempts were made to try to limit the universities' right to establish the number of study places, in order to satisfy some private universities. For the first time in recent decades, the present Government set the dates of the beginning of the academic year. And we are probably not at the end of the undermining of university autonomy. For some universities this autonomy equals civil liberty, without appreciating the fact that university autonomy should be viewed as the irreplaceable instrument for the enhancement of university performance.

Considering Romania's experience up to now, it is clear that university autonomy is necessary as the basis for higher education. But university autonomy must be complemented by performance standards and open competition for budgetary resources. For Romania also, the solution does not lie in the limiting of university autonomy, but on the contrary – in its enhancement, thus pro-

viding the grounds for an increased administrative responsibility of the academic community and leadership with regard to teaching, learning, research and service performances. In Romania this solution requires further reform of higher education legislation, as proposed in 2000 by the Ministry of Education, under the Law of Higher Education. At least the following measures are necessary in the near future as regards university autonomy: state grants offered on the basis of free competition to enable candidates and students to enrol at the university of their choice; an open-door employment policy for foreign professors; the allocation of state funds on the basis of competition between university programmes; the inclusion of research performance in institutional contracts between the university and the Ministry of Education. Romania has to overcome the remains of centralism and the danger of populism, and needs to make this step soon. Romania needs to accomplish this by promoting a university policy based on university autonomy in a competitive educational environment.

As a Conclusion

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The Magna Charta Universitatum is a declaration of the fundamental values, rights and responsibilities of universities. It is a statement of general principles which have been held by universities in some form or other since the creation of the medieval universities in Europe following the founding of the University of Bologna in the Ninth Century. The concept of the university has, since then, been constantly reassessed, as has its role in society. There has been evolution of the philosophical understanding of what a university is and what is its role in society. Within Europe the two most powerful ideas have been those of Humboldt, which emphasised the central role of research, and of Newman, which placed great weight on the development of young minds through liberal study.

At all times universities have had an understanding (usually implicit) with society in which they accept the responsibility to deliver benefits to society (educated graduates and new knowledge) while also demanding protection of university independence. Such understand-

ing has been mediated by the king, or other powerful nobles, by the church, or predominantly in recent centuries by the nation state. These agents have claimed the right to determine the rules or conventions for the implementation of the contract between universities and society.

These rules and conventions have always been subject to debate. What, for example, are reasonable expectations of the state acting as the representative of society? What are the fundamental rights of universities and what arguments can be used in their defence? How is a balance to be achieved? One of the crucially important roles of universities, and particularly of individual academics within them, is to criticise society, and especially its political structures and actions – providing, of course, such criticism is based on careful reflection, reasoned argument and honest debate. Thus on occasion there will be direct conflict between academia and the political elite and universities will need protection from any illegitimate use of political power. But there are also other groups in society who may demand of universities that they undertake activities which assist in the achievement of the aims of the groups. Industrial corporations provide an obvious example. Here the arguments for university freedom must be deployed rationally, in particular that without freedom, creativity will not flourish so that in the longer term the universities' ability to serve society will decline. Again a balance must be struck after reasoned argument.

So, why is an Observatory of great significance at this particular time? When the Magna Charta Universitatum was signed in 1988, the most common pressure of concern to universities related to attempts by some national governments to suppress political and social comments and criticisms made by academia. While this remains a real concern, the rapid development of the Information Age has added another factor, namely the high expecta-

tions which governments now have of the economic and social contributions universities can make. Governments now demand of universities that they do much more than the traditional activities of providing liberal education to a largely youthful elite, and the pursuit of research satisfying the intellectual curiosity of academics. These additional expectations include: many more students from a wider social mix; vocational education; lifelong learning; applied research – both technological and social; direct economic impact; and reduction of social exclusion. These expectations are certainly reasonable and universities applaud the intentions; indeed they feel flattered that they are seen as so important and wish to respond positively. The important question is again one of balance. How can universities respond to these immediate demands while still maintaining their ability to be both creative and independently critical?

In these changed, and continually changing, circumstances there is a pressing need for an organisation which can monitor events and make representations when it believes the fundamental rights of universities are being infringed. But it is also of great importance that there is a reassessment of the arguments used in defence of those fundamental rights and of the criteria which determine an appropriate balance between the maintenance of those rights and fulfilment of the responsibilities of universities to serve society. The Observatory of the Magna Charta Universitatum has the opportunity not only to monitor possible abuse of the rights of universities but also, through debate with interested parties both within universities and in the wider world, to find forms of expression of those rights and responsibilities appropriate to an era of mass higher education in the Information Age.