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## Public participation in the higher education governance

### (Ukraine, Belarus and Moldova)

#### Policy-paper

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## **Executive Summary**

*Increasing the public participation in the university's governance is the one of the key element of the higher education transformations in the Eastern Europe. The monitoring conducted by the international experts team from Belarus, Ukraine, Moldova, and Lithuania was focused on juridical background of the stakeholder's involvement in the university's governance, modes of the higher education management, university autonomy and public participation practices. Ukraine and Moldova have achieved essential progress in seeking for university autonomy and public participation in higher education sector. The main challenge now is the proper implementation of the recently adopted legislation into the everyday academic practice. The Belarusian case is significantly different. The official ideology and legislation encourage the constant state interference into education process participants' relations. The implementation of the common European Higher Education Area ideas is of the far perspective.*

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## Introduction

Increasing of the public participation in the university's governance is the one of the key element of the transformations of the higher education in the Eastern Europe. Effective public control could bring together academic practices and societal demands for the better quality of higher education at the national level. The current situation could be characterized as of almost total lack (Belarus) or, to varying degrees, insufficient (Ukraine, Moldova) public participation in the university's governance. The expert monitoring project was conducted by the NGOs group from Belarus, Ukraine and Moldova as the kind of tool to engage the wide range of stakeholders to participate in the higher education management. The monitoring was focused on the three main areas: juridical background for stakeholder's involvement in the university's governance, the higher education management modes, university autonomy and public participation practices.

## Problem Description

All the post-Soviet countries to a different degree are involved in processes of their higher education systems modernization in accordance with the European Higher Education Area (EHEA) principals. However, the education area democratization and social partnerships expansion in the university's governance remains the cornerstone issue for Belarus, Ukraine and Moldova. The most important objective of the countries' civil society is to create the instruments for influencing democratization and governance decentralization processes in education at large and in separate institutions.

### Belarus

The monitoring reveals that the situation in Belarus is essentially different when compared with Moldova and Ukraine. Both in Moldova and Ukraine the situation is due to change after the adoption of recent Laws on Higher Education. They are aimed at substantial governance modernization in higher education and provide better opportunities for public participation. In Belarus one can observe a movement towards the opposite direction, where the amendments to the current Law on Education are aimed at further institutional autonomy restrictions. The Belarusian Parliament approved the Education Code on January 13, 2011. In 2015 the Ministry of Education prepared amendments to Education Code but the new Code edition's terms of consideration in the National Assembly have been constantly postponed. The legislative framework comes into escalating conflict with higher education reforms objectives encouraging legal nihilism and administrative highhandedness.

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There are variety of different public, expert, coordinative and other councils in Belarus existing under the auspices of the Council of Ministers, but in fact it doesn't mean stakeholder' involvement in its activities as they are appointed by state officials and are not granted any decision-taking powers. The common feature of all existing consulting bodies is that the decision on establishing Council, as a rule, is adopted by the Council of Ministers at the national level while at the local level this is done by the Executive Committee or by the relevant local authority or its official representative under which this Council is established. There are no documents regulating such Councils activities available for public access. As a rule, there is no Rules of Procedures setting the ratio for representatives from state and public organizations in the Councils as well as criteria for public organizations/associations/union participation in Councils' activities. Councils' decisions have only recommendation nature. In spite of the fact, that the legislation envisages the Public Coordinating Councils establishment under the Ministries, the Ministry of Education avoids establishing such Council.

In reality, public participation in higher education management is missing. Those legal instruments, which citizen or public associations can use to affect somehow education management are suggestions, complains, petitions and are exercised in accordance with the law on citizens' petitions, on consumer rights protection, on prosecutor's office, on professional unions and mass events. In other words, stakeholders have right to request, to protest, to demand but in no way to manage. Only state officials make managerial decisions.

The level of Belarusian universities institutional autonomy is measured using the method adopted by the European University Association (EUA). The received results show a very low level of organizational, financial, personnel and especially academic autonomy. Although in recent years, some steps were taken to expand the higher education institutions autonomy in terms of curriculum design, the autonomy level by all four parameters does not exceed 25% of the norm. This is probably the worst record in the EHEA.

Similar situation with stakeholder involvement is on the institutional level. The Senate or the academic council does not elect rectors as the President, the Government or the Minister of Education appoints them. Even a private higher education institution Rector is to be appointed by the Minister of Education.

The procedure of involving external stakeholders into the university council is also not specified. Employers and other stakeholders are almost non-represented in university councils, though formally such a possibility exists. Boards of Trustees, which are

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present in a number of universities, have no real powers of influence. Formally, the students as stakeholders have a right to participate in the higher education institutions governance. Student representatives comprise 25 percent of the university council total number of members. However, students, according to the monitoring results, are usually not elected but appointed by the administration. All decisions taken by the student councils are not valid until they are approved by the university administration. Student organizations are not independent legal entities and thus have limited possibilities to represent students' interests.

Report on Belarus reflects a rather pessimistic outlook at possibilities of public participation in the governance of higher education institutions. Both sides – the state and the stakeholders – seem to be not ready for such involvement. State demonstrates a total distrust towards any manifestations of genuine public activities, while students, employers and other stakeholders seem to show no active interest in greater involvement in the governance of higher education institutions. In short, there is still a long way to go in order to rearrange the university governance along the lines of the institutional autonomy as it is perceived in a European Higher Education Area.

## Ukraine

The situation with the public participation in the higher education institutions governance in Ukraine is very different. The new Law on Higher Education, which came into force on September 1, 2014, initiated a number of changes in the regulatory field. However, it seems that a system of higher education is still in the process of transition. There are still many issues that remain without proper legislative support. In particular, the independent National Agency of Quality Assurance, which is supposed to represent stakeholders' interests in providing study programs' expert assessment, is not yet established.

A very important aspect of institutional autonomy is the fact that universities themselves decide on their governing bodies. However, though the report claims that it is more a formality, the elected rector has to be approved by the Ministry of Education and Science. It's also important that both rectors and deans may be in the office for no more than two terms each of which lasts up to five years. Another autonomy indicator is the fact that rectors are elected on direct elections by a secret ballot allowing all full-time faculty members, elected students representatives and elected staff representatives to vote (75, 15 and 10 percent accordingly). The fact that students do not always show a high level of interest in the election process is not surprising, as it needs time and expertise in order to get actively involved in the university governance processes.

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Report on Ukraine noted comparatively high degree of universities' institutional autonomy provided by the new legislation and some limitations of academic and financial autonomy.

Academic council has enough decision-making powers, though it is not fully independent from the rector's influence. It's also very important that 10 percent of the council members are elected students representatives and it can also include employers' representatives, though it is still a rare practice. Experience is needed in order to get used to the new governance practices and at the present moment the crucial aspect is the legal basis, which is a necessary precondition for these practices development and implementation.

The supreme collegial body is also a significant step towards greater university autonomy. Though it doesn't exercise much of decision-making powers, it is assigned an important function such as monitoring the internal governance processes. It's an undoubtedly positive fact that students are involved. No less important is the fact that some external stakeholders can also be represented in the supreme collegial body.

It is reported that the Board of Trustees and different advisory bodies role in terms of governance is often pretty nominal. Usually, Board of Trustees has limited possibilities to conduct effective monitoring and supervision. However, such bodies play another significant role - they provide opportunities for establishing and maintaining contacts with different public interests groups and partner institutions.

The university faculty members' trade unions have a legitimate right to exist though usually faculty tend to solve their emerging problems with the help of their representatives in the university self-governing bodies like the academic council and the supreme collegial body.

## Moldova

The report on Moldova reflects a situation, which is in many aspects similar to that of in Ukraine. Educational reforms in Moldova, which started in 1990-s, were not very effective and mainly resulted in numerous amendments to national legislation that did not bring many changes in practice. Finally in July, 2014 a new Law was adopted, which is expected to transform the higher education sector fully in accordance with the Bologna ideas.

New Education Code settles high standards for university autonomy in Moldova. It postulates that university autonomy is the university community rights for organization and self-governance, for academic freedom without any ideological,

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political and religious interference, for accepting some competences and responsibilities as set in national higher education development policies and strategies. It also states that university autonomy is directly associated with university management, organizational structure and its smooth functioning, faculty and research activities, management and finance. The Higher Education Institutions within its autonomous rights shall also develop the faculty and research activities evaluation criteria, award academic degree, provide the election of all management personnel by secret ballot, resolve students and personnel social issues. In financial terms, university autonomy is its financial resources management including state financial allocations as well as use of available funds for statutory activities based on university's own decisions, accumulation of own income from tuition fees, provided services and other specific activities in accordance with the list of services approved by the Government.

The Law indicates that the higher education institution governance includes the Senate, the Council (Board) for strategic institutional development, the academic council, the administrative council, etc. The Senate has decision-making powers in key areas of university activities, including the strategic planning, the budgeting, the regulations for recruiting the academic staff, electing the rector, etc. The Council (Board) for strategic institutional development is a new structure, which is supposed to monitor the strategic plan's implementation and the university financial spending effectiveness. The Council (Board) has nine members and partially consists of external stakeholders, including three candidates suggested by respective ministries (however, do not belonging to the Ministries' employees) and two candidates, suggested by the Senate, who are external experts. Chairman of the Council (Board) is also elected from the candidates representing external stakeholders. The Council (Board) can become an effective instrument in involving key stakeholders in its activities and assuring the permanent external university governance monitoring. The students' interests should be assured by involving students' representatives in the Senate activities and the faculties' councils, where, according to the legal regulations, they should constitute one-fourth of the total number of members. Among the problems, which were pointed out by the Alliance of Students of the Republic of Moldova, are the lack of experience of working in the governing structures, and, what is even more important, student organizations do not have the status of legal entities.

The Law does not specify the mechanisms of involving the students' parents in the university management structures. The number of their representatives in the Senate or other institutions' self-governance is not indicated in the Law. The legal documents also do not reflect the mechanisms of involving employers and do not define the board of trustees' role. On the other hand, the institutions, defined in the Law, seem to be

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sufficient for optimal distribution of power and provide good opportunities for public participation in the governance structures.

The report also reviews the Statutes of selected universities in order to illustrate how the principles declared by the Law on Higher Education found their reflection in higher education institutions internal rules and regulations. The general conclusion of this review is that the Statutes tend to meet the requirements defined in the Law on Higher Education.

## Conclusions

Although there are certain minor differences in the governing structures of higher education in Ukraine and Moldova, both countries have achieved essential progress in seeking for university autonomy and public participation in higher education sector. The main challenge for both countries is to implement the recently adopted legislation into the everyday academic practice. The Belarusian case is significantly different. Though Belarus recently became a member of the Bologna process, there is still a long way to go towards the Common European Higher Education Area ideas implementation, including the idea of the academic autonomy, and there are no indications to believe to that this will happen in the observable future.

### Belarus

A distinctive feature of Belarus education system is statism encouraging the constant state interference into education process participants' relations. The state doesn't take responsibility for dissent funding allocation for education or creating condition to attract private investments but on the other hand, the state doesn't refuse to close on itself and to mediate relations among higher education groups of interests and stakeholders.

However, in spite of Belarus educational system crisis, Belarusian authorities are not ready to decentralize higher education management. The Ministry of Education draft law on amendments and addition to Education Code preserves all rules suppressing even timid hopes for strengthening academic community autonomy, education stakeholders equal partnership or democratic procedures for appointing education institution heads. And it is not only about political risks. There is no special opposition among students and faculty in Belarus as well as there is no threat to undermine authorities from other stakeholders. Total distrust and suspicion of any amateur form is powered by traditional statism ideology imposing paternalism and state monopoly values on the truth.







## Ukraine

Ukrainian legislation on the higher education is going through transformation. The new law "On Higher Education", which entered into force on September 1, 2014 initiated a change in the legal sphere, but today only 19 legal documents out of 40, required for the implementation of the law, were adopted. Bureaucratic procedures significantly slow down the reform. Applications of the new law are openly selective. Despite of the general legal framework existence, in practice there are lot examples of different forms and degrees of university autonomy and public participation in universities management.

The university governing bodies system is not balanced. The duties in between decision-making bodies are not distributed based on subsidiary principle. Academic Councils are not enough free from rector's administration influence. The culture of representative democracy among faculty and students is far from ideal. When conducting election campaigns, candidates for the rector's position do not take any strict obligations to implement what is reflected in their programs. The universities supervisory boards are weak. The compositions of their members don't allow effective participation in the higher education institutions management. They do not have real power to control the university budgeting, expenditures, payroll and the strategies implementation. The management mechanisms in general are not enough transparent.

## Moldova

The new Education Code (2014) settled the legal basis for education system modernization in Moldova European integration context. They comply with Bologna principles and Strategy for Education Modernization 2020 proposed by the Ministry of Education. The key provisions of new Code are to strengthen education institutions autonomy and to increase institutions' collegial bodies public control. The Code sets the main principles on which the education management system should be based, defines organizational and management structures as well as defines its competences. The Code establishes the universities autonomy rights. In accordance with this, university autonomy is the university community rights for organization and self-governance, for academic freedom without any ideological, political and religious interference. The university autonomy is related to university management, organizational structure and its smooth functioning, faculty and research activities, management and finance. In order to proceed with institutions autonomy, the new Strategic Institutional Development Councils were introduced in the university structure. The new regulatory documents specified student self-government duties,





responsibilities and competences. Student organizations and universities student self governments actively participate in higher education intuitions processes in Moldova. They represent and defend student community interests at university and inter-university levels. The main problems that student organizations face are difficulties in obtaining registration and receiving an official student self government status at national level; insufficient financial support by universities; the lack of established mechanism related to state programs support for student organizations and the inability of non-registered organization to access and/or receive international programs funding.

In real practice as well as in regulatory documents, there is no introduction of higher education institutions Board of Trustees although this could become an additional instrument in educational process organization and development, in improving institutions' facilities and attracting additional budgetary funds, organizing sports and cultural events, etc.

Moldova higher education intuitions' structure doesn't possess any practice and/or regulatory documents related to Parent Organizations/Associations activities (often they are either voluntary organization or established as NGO or Public Foundation in primary and secondary education field).

## Recommendations

Belarus

*Recommendations to National Assembly (Parliament):*

- to adopt a new version of the Education Code and related laws;
- to decentralize higher education management and redistribute authorities powers;
- to pass the right to develop educational policy from the President to the National Assembly under the condition that the interests of various groups will be incorporate into it;
- to secure in the Education Code the higher education stakeholders rights to participate in higher education institutions management;
- to establish universities accountability to the academic community and other higher education stakeholders;
- to secure in the Education Code the universities' collegial bodies rights to decide on major issues: universities' development strategy, financial matters, personnel and academic policies;
- to legalize democratic procedures in forming universities government bodies;
- to secure guarantees for faculty and students academic freedom as well as a real

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institutional autonomy of universities;

- to guarantee the independent financial support for the student self-government at various levels.

*Recommendations for the Ministry of Education and other central government bodies that have associated with them higher education institutes:*

- to review the higher education regulatory framework in order to reduce and limit interference into the managerial, human resources, financial and academic issues of university life at the levels set by the new version of the Education Code;
- to establish Public Advisory Council associated with the Ministry of Education to provide an equal partnership and stakeholders participation in the higher education management;
- to ensure the democratic procedure while establishing this Council and its independence from the Ministry and other government authorities.

*Recommendations for the Student Associations and student self-government Bodies:*

- to pursue the legislative recognition of the student self government legal status, powers and mandatory funding rules;
- to ensure the compliance with set norms for student representation in the higher education institutions' governing bodies;
- to control the compliance with democratic norms in terms of student representation and student self-government;

*Recommendations for NGOs:*

- to monitor the legal norms and regulations implementation to insure the equal partnership and public participation in higher education management and in the universities itself;
- to pursue the procedures modification for establishing and empowering the Public Councils to ensure the civil society organizations representation in them;
- to pursue the Public Advisory Council establishment under the Ministry of Education

*Recommendations for Employers Associations:*

- to promote actively their representatives in sectoral bodies for professional standards development;

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- to participate in developing professional standards for higher education quality management.

Ukraine

*Recommendations to the Verkhovna Rada of Ukraine (Parliament) to make amendments to the current legislation:*

- to balance powers within the university governing bodies system, based on the subsidiarity principle under which management of higher level takes responsibility and authority only if at a lower level that cannot be implemented or their implementation would be less effective.
- to exclude possibility for the Rector to be the head of Academic Council, and for the administrative staff to be Academic Council members.
- to make mandatory that candidates' programs for the rector's position when elected, should become an appendix to candidate's contract with the Ministry.
- to reduce the votes threshold for rector's dismissal from the standard 2/3 of total number of voters at supreme public self-governance collegial body to a simple majority.

*Recommendations to Ministry of Education and Science and universities authorities:*

- in order to strengthen the supervisory boards position at universities employers and the HEI graduates participation should be allowed;
- to empower supervisory boards with real powers to control the university budgeting, expenditures, payroll and the development strategies implementation;
- to improve the strategic planning quality, including presentation of the tangible and intangible benefits, financial performance reports, savings offers and efficient resources use plan;
- to increase the level of transparency and accessibility to administrative and financial information, including open financial statements according to the common practice in Western universities;

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- to provide open adequate information on curricula and syllabus content, faculty members profiles and expected learning outcomes and professional competences, which can be easily accessed;

*Recommendations for the Student Associations and student self-government Bodies, NGOs, and Employers Associations:*

- to increase awareness of reform mechanisms and set goals among key stakeholders;
- to step up data collection about industry and its quality analysis, and management's quality improvement at all levels and demand the labor force quality improvement;
- to decrease or eliminate demand for low-quality education among students and faculty.

Moldova

*Recommendation for Central governmental authority:*

- to expand and detail regulatory base for higher education democratization and more clearly define social partners and other stakeholders' role in higher education management.
- to set necessary conditions and administrative mechanisms for cooperation between higher education institutions and civil society organizations.
- to develop a legal framework for establishing Board of Trustees as one of higher education management structures.

*Recommendation for Ministry of education and universities authorities:*

- to allocate budget for student self-government bodies on annual basis.
- to introduce more 'hands on' approach and detailed regulatory basis for cooperation with Parents Organizations/Associations and their participation in decision making and higher education management itself.



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