

'From soft law to hard law' – the creation of a European Arena of Higher Education and the foundation of the University of Luxembourg (0235)

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Higher education has an inherent international dimension. And yet, at the same time many of the wider conditions determining the higher education policy space are deeply rooted in national or sub-national contexts, making it an especially interesting terrain to evaluate the impact of policy developments on the international level.

While it is possible to talk of the internationalisation of higher education long before the issue entered public discussions, arguably the most visible developments took place on the European level in the form of the Bologna Process, and to a lesser degree the accompanying Lisbon agenda/strategy of the European Commission. The actual translation of these initiatives into policy processes led to the creation of what can be described as a European arena of higher education (Harmsen, 2013).

The conditions and limitations imposed on this arena by the politically sensitive nature of the higher education sector do not allow for a direct and legally binding European policy involvement at the national level, making necessary a 'soft law' approach, as highlighted by the open method of coordination specified in the European Union context.

The functioning of such a 'soft law' approach and the implementation of the goals of the Bologna process in various national contexts has been widely discussed, but the connection between the European arena and the national arenas in terms of policy processes, i.e. the translation from 'soft law' into 'hard law' in the form of concrete legal provisions on the national level, still leaves room open for analysis.

Relative to these wider developments, Luxembourg offers a distinctive case study, as it did not have a university when the European arena of higher education was initiated. As such, the relationship of the national system to the emerging European one does not conform to the typical pattern of institutional adaptation to external pressures, but rather consists in a type of co-constitution of the national arena in relation to its European counterpart.

Reflecting a tradition in which the education abroad of a small but distinguished national elite was seen as a national advantage, a university was long not seen in the Luxembourgish case as a necessary ingredient for the well-being of the (small) state. The scenario, however, changed with the increased internationalisation of higher education (see: Teichler, 2004; Forest and Altbach, 2007) and the above described creation of a European arena of higher education. The associated concept of the knowledge economy thereby especially generated pressure in Luxembourg, but more importantly equipped political actors in the country with the means to focus on a knowledge economy related to the diversification of the national economy – of particular relevance in a country whose wealth rests on a rather narrowly defined economic basis.

The national debate surrounding the foundation of the University of Luxembourg (UL) took place against the backdrop of these different concerns, reflecting both traditional national resistance and evolving European and international trends. The paper is divided into two sections. In the first section the focus will be on the 'soft law' dimension represented by the European arena of higher education, its creation and its functioning. In the second section the

paper will look at the ‘hard law’ dimension by analysing the national discourse surrounding the establishment of the UL in 2003, the different actors and the different interests and perspectives involved, with a particular emphasis on the analysis of the impact of the European arena, i.e. how ‘soft law’ is translated into concrete legal provisions.

The methodology is mainly based on literature analysis and – of particular relevance for the Luxembourg case study due to the limited availability of existing literature – on 22 qualitative interviews (2011-2014) with key national and international actors related to both the creation of the European arena of higher education and the national discussion process in the run-up to the foundation of the University of Luxembourg. The central question thereby is: how has the European arena of higher education influenced the creation of a university in Luxembourg?

In its analysis, the paper offers an insight into the policy connections between the European and a national arena. The transition process laid out in the paper provides a unique and concrete example of Europeanisation at work. The research underlines the importance of distinguishing the national arena of higher education from the European arena of higher education, focusing attention on those actors able to ‘bridge’ the two. In this vein the paper benefits from previous research on the European Higher Education Area and from research on various national higher education policies and it contributes – as one of six case studies – to a larger research project at the UL focusing on the impact of globalisation on higher education policy.

References

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