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# HUNGARIAN UNIVERSITY REFORMS ON TRIAL

## Boards of Trustees and the Paradox of University Autonomy

**Abstract:** This study investigates the possible negative effects that boards of trustees (BoTs) of private universities have on academic autonomy. Over time, Western universities have developed a model with a reasonable degree of shared responsibility between BoTs and the university community. Recently, Hungarian public universities that are transitioning to a private model have been learning how to better share responsibility between BoTs and their universities. This study aims to devise a new test of academic autonomy based on an analysis of the experience of the QS top 100 universities with BoTs. This test will help to reach a better understanding of the situation of the 21 Hungarian public universities recently transformed by the government into private institutions. Examining these Hungarian cases may enrich theoretical and legal debates on the effect of BoTs on the academic autonomy of private universities, although this may in turn lead to further paradoxes.

**Key words:** ACADEMIC AUTONOMY, UNIVERSITIES, BOARD OF TRUSTEES, HUNGARIAN HIGHER EDUCATION, HUNGARIAN GOVERNMENT, UNIVERSITY POLICY.

## Introduction

Between 2019 and 2021, the Hungarian parliament transferred the majority of the country's state (public) universities from public ownership to the ownership of public interest trusts (PITs), established by the Hungarian state as foundations. The European University Association (EUA) has recently expressed its deep concern about "the steady decline in university autonomy observed in Hungary that has damaged university communities in the country".<sup>1</sup> The EUA has argued that the reform of university governance in Hungary has led to significant divergences from European universities' governance practices, notably concerning the configuration of the boards of trustees of the public interest trusts, which is undermining the autonomy of the universities in Hungary. The EUA claims that

- the transfer of substantial decision-making powers to a body consisting exclusively of members appointed by the government for life can be considered as a reduction of institutional self-determination and is not in line with practices observed in Europe regarding university governance. The model fails to find a balance between the university's accountability to society and the state through the involvement of external members and the university's self-governance.<sup>2</sup>

As a consequence, the EUA – which provides a scoring and comparative analysis of 35 European countries – excluded Hungary from the 2023 edition of the Autonomy Scorecard.<sup>3</sup> As grounds for its decision, it cited the above criticism, i.e. Hungary has developed a governance model for "21 foundation universities" that does not exist in any other system in Europe. Accordingly, it is beyond the scope of the Scorecard method's comparative assessment and cannot be compared in this framework. The EUA recommended that the university community should play a formal role in the selection of trustees and that exclusive and irrevocable decision-making rights connected to core academic issues should clearly be held by the university senate. In February 2022, the European Commission ceased to provide legal commitments on Erasmus and R&D funding to the 21 public interest trusts that maintain 21 universities in Hungary. This has affected the participation of Hungarian higher education institutions, representing around 85% of the Hungarian student population, which are maintained by such trusts, in vital EU programmes such as Erasmus+ and Horizon Europe.

Since the EC took this measure, the Hungarian government has taken steps towards the resolution of the issue, as a result of which ministers and government-party politicians resigned from their positions on the boards of the public interest trusts managing these (formerly public) universities. As of May 2023, the position of European Commission has not yet changed, however. The government has also expressed its willingness to make legislative changes regarding the current lifetime mandate of board of trustees.

1 <https://eua.eu/news/998:eua-board-urges-hungarian-government-to-address-autonomy-concerns-to-ensure-universities%E2%80%99-access-to-eu-programmes.html>

2 The Evolution of university autonomy in Hungary: A complementary analysis to University Autonomy in Europe IV: The Scorecard 2023. 3.

3 EUA University Autonomy in Europe, The Scorecard IV. March 2023.

So as to better understand the EC's measures and the EUA's concerns it is worth examining some details of the so-called "model-change" experienced by the Hungarian universities, in particular some changes regarding the authority of the new bodies maintaining them (the BoTs) and the senates of the universities. The reform has been criticized by several scholars (see, e.g. Polónyi, 2022: 83), too, however the 21 rectors involved have repeatedly made public statements on the necessity and expected benefits of the reform.

## **"Public-to-Private" Model Change of Hungarian Universities**

The new legislation introduced between 2019 and 2021 changed the status of 21 universities from public to private institutions and transferred the responsibilities for their maintenance and the property rights of the universities from the state (government) to public interest trusts (PITs) newly founded by the Hungarian state. The board of trustees of the PIT, as maintainer, decides on the university's budget, organizational and operating regulations, asset management plan, business activities, and on submitting the rector's appointment to the head of state. A long-term framework agreement between the government and the PITs sets out how the state will finance the university, applicable for a period of 15 to 25 years. In this respect, the government provides detailed task financing agreements for a period of five years, setting out a performance indicator system of the relevant activity for each PIT and each university, as well as the exact corresponding amount of state support.

At this point, it is important to clarify the reasoning provided by the Hungarian government for ceasing to directly maintain the "model-changing" universities by the state as public maintainer. According to the government, the purpose of these reforms was to develop "higher education that is more beneficial and competitive in all respects". The change of model is expected to make four important changes for universities: (a) the end of the bureaucratic system of ministerial supervision; (b) their exit from the direct financing system of public finance regulations and the state budget; (c) they will cease to be state property; (d) their employees will no longer be within the scope of the civil servant regulations. The previously public status of these institutions (i.e. state maintenance) meant that the designated minister ensured the necessary conditions for the operation of these universities, issued their charters, and determined the main items of their budgets, while supervising their management, the legality and efficiency of their operation and the effectiveness of their substantive work. In addition, the minister was responsible for nominating and dismissing rectors and chancellors, and acted as their employer.

In the new "private" model universities, the Hungarian state established special PITs, whose first trustees were appointed by the minister, although the founding rights of the PITs were transferred to the BoTs themselves by the founding legislation. The PITs thus took over the founding and maintenance rights of the university from the Hungarian state. According to the government, this will lead to a qualitative change whereby the decision makers will be boards of trustees dedicated to each university, instead of the universities being under the authority of the ministry.

Compared to state universities, the competitive advantage of PITs running the universities is that they can manage them more flexibly outside of state budget regulation, i.e. the PITs have their own property and finances instead of depending on public property and public money. The main reason for the change of model is, therefore, the expectation that these universities will be better managed by BoTs made up of autonomous individuals having political or economic backgrounds, with proven managerial skills and an “ownership approach”. In other words, instead of professional public servants taking decisions on the operation of the universities in the public interest, as was the case with the former (state) maintainers, it is expected that decisions taken in the interest of the university, aligned with the market reality and driven by “owners” (BoTs) will lead to more motivated and competitive operation.

From 2019 to 2020, the model change started at those public universities whose senate requested the introduction of the new PIT-run private status. The government promised these universities better chances of receiving EU and national development funds. The government policy arguing against the effectiveness of state management (!) was unusual, especially because, since 2010, there has generally been an expansion of state responsibility and strengthening of state management in all areas of Hungarian society and economy. However, from the point of view of higher education, the change in model appears to have been a rational decision. For decades, the management of state universities has had a paralyzing effect, deepening the historically entrenched paternalistic thinking: “the ministry will tell you what to do”. The “state” and the rules of public finance have often fed the spirit of bureaucratic cultures, which has weakened creative and innovative forces. After several decades of half-baked reforms, the new foundation ownership (PIT) model represents an exciting new opportunity to improve universities. The impact of the model change on the academic and economic performance of the universities that have undergone it is still fluctuating, and its effect on their efficiency and long-term results may only become apparent in three to four years.

The economic and operational autonomy of the model-shifting universities was an important part of the justification for the new policy. However, the impact of BoTs on academic autonomy has increasingly become a matter of concern. To understand how the change from a public to a private model challenged the universities’ academic autonomy, it is worth studying western private universities, where responsibility for organizational, academic and financial matters is traditionally shared between BoTs as external maintainers and senates. Academic autonomy means that the senate has the right to decide or agree on academic-related matters, e.g. the curricula of degree programmes and subjects, the goals of research and the activities of the university’s faculties and departments. The concept of autonomy should make a distinction between the autonomy of the individual university and of its academic staff (Tapper, Salter, 1995: 59).

To some extent, the external BoT necessarily limits academic autonomy, and as long as this restriction is reasonable and proportionate, it is acceptable. The authority of the BoT in limiting academic autonomy should be subjected to tests of reasonableness and proportionality. For this reason, this study will evaluate the levels of autonomy of top global universities, then examine the autonomy of universities in the new Hungarian model with regard to the operation of the BoTs. In this regard, the axiom of the study is that, on the one hand, the university’s

educational effectiveness and scientific impact are directly proportional to the degree of academic autonomy it enjoys, at least in the long run, while on the other hand, the authority of the BoT should never violate the academic autonomy of the university community.

## **The 5-item research-education autonomy test (5-REACT)**

Academic freedom requires a certain degree of institutional autonomy, thus academic autonomy derives from organizational, operational and financial authority. The concept of academic autonomy covers decision making on study fields, student numbers, student selection, structure and the content of degree programmes and also extends to the conditions and circumstances of research and education. The 5-item research-education autonomy test (5-REACT) evaluates the operation and powers of the BoTs operating at the QS World University Ranking 2022 TOP 100 universities in relation to five critical factors that directly or indirectly affect the conditions of academic freedom and university autonomy. The essence of the university's research and teaching autonomy requires that the senate has a meaningful influence on organizational, personnel or financial issues relating to the institution's teaching and research activities (Kollár, 2021). In this study, the research and educational autonomy of universities is interpreted on the basis of Article X (3) of the Fundamental Law of Hungary (Hungary's constitution), which states that universities shall be "independent in terms of the content and methods of research and teaching". This autonomy with regard to the research of universities is complemented by Article X (2) of the Fundamental Law, according to which "the State is not entitled to decide on the issue of scientific truth, only scholars are entitled to evaluate scientific research". These sections of the Fundamental Law directly impose on the state the obligation of neutrality towards the evaluation of scientific research, which also precludes state involvement in deciding on the research curriculum of higher education institutions (21/2021. (VI. 22.) Hungarian Constitutional Court - HCC point 22). These legislative interpretations are in full compliance with the general meaning of academic autonomy.<sup>4</sup> However, in our view, the "obligation of neutrality" should apply to every entity that is not qualified as a representative of science. It should apply to the board of trustees of a university foundations unless they are scholars or a majority of them are scholars. According to the Hungarian Constitutional Court (HCC), respecting the research and teaching autonomy of universities requires the state to create an institutional system safeguarding the autonomy of the universities (21/2021. (VI. 22.) HCC point 23), namely a regulation that "ensures the enforcement of research and teaching autonomy free from non-academic influence" at the university. For this reason,

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4 International University Association Policy Statement 1998: Academic Freedom, University Autonomy and Social Responsibility.

university legislation stipulates that the senate is the supreme decision-making body for all universities.

However, this does not mean that a university's senate – as the custodian of its autonomy – should be exempt from all external influence on decisions concerning research and education activities. Moreover, according to the HCC's logic, decisions of BoTs on matters affecting research and educational issues meet the requirements of university autonomy as long as there is a real opportunity for the senate to influence them. In the new legislation, BoTs have broad decision-making powers on the university budget, organizational and operational regulations, the asset management plan, business activities, and nominating candidates for the position of rector. These decisions directly affect the conditions of research and teaching autonomy, thus our test was devised for the purpose to examine the factors which could weaken this autonomy or even heighten the risk of it being harmed. These factors are as follows:

1. The composition of the BoT: ratio of academics/scholars on the Board of Trustees. The proportion of academic trustees on the board indicates the extent to which decisions are made by scholars. These academics are not necessarily affiliated with the university managed by the given BoT. The risk of restricting academic autonomy is assumed to be proportionate to a lower ratio of academic trustees on the BoT. Comparative analysis shows that most BoTs are composed of a combination of non-academic stakeholders and academics affiliated with the university. The degree of risk to research/education autonomy can be measured along the following scale: an entirely pure non-academic BoT (only non-academic trustees), a board with a minority of academics, a board with a minority of non-academics, and an academic-type BoT (containing academic trustees only).
2. The quality of regulation of the criteria for trusteeship (merit-based criteria, election, transparency) can show the extent to which trusteeship is based on professional merit, transparency, and open and democratic selection criteria.
3. The critical number of board trustees may enhance the professional and democratic decision-making of the board, based on the diversity of stakeholders. Universities have become large and complex institutions, with the result that over time, the diversity of BoTs has increased, growing to include a wide range of professionals. This can be accounted for by both governance experience and a representative democratic culture. It is fair to say that fewer trustees, and a greater uniformity among them carries a proportionate risk of unreasonable decision-making.
4. Rules for trusteeship rotation: a fixed-term mandate may increase both the accountability and the chance of maintaining the level of motivation of trustees. Modern governance cultures, whether in political, corporate or academic contexts, prefer fixed-term mandates for decision-makers to enforce principles such as accountability and responsibility. The risk of bad decisions can increase if there is no turnover among trustees due to the excessive duration of their mandate (including lifetime appointments).
5. The BoT's decision-making power factor means the extent to which the board of trustees can decide on the organizational, operational and financial conditions of the university. Giving boards of trustees overly broad powers to decide on organizational and operational matters relating to education or research is risky.
  - 5.1. The main elements of organizational autonomy include the capacity of the academic community to decide on academic structures, their operational rules

and the establishment of organizational units.<sup>5</sup> This capacity is key to creating the appropriate conditions for education and research. Other elements of autonomy may include the selection procedure for the heads of organizational units, setting nomination and dismissal criteria for university executives and for external trustees in university bodies. The risk of an unreasonable limitation to organizational autonomy can increase if the BoT has overly broad powers to decide on organizational and operational matters related to education or research. For most of the top 100 universities, the power of their Boards of Trustees does not extend to organizational and operational details and rules. As policy-makers, they mostly serve as a bridge between the university and the world by bringing in experience and perceptions gained outside the university. They provide leadership in capacity-building initiatives and oversee the university's relations with other stakeholders. To help meet these goals, the trustees determine the long-term allocation of resources, making decisions in the context of the needs and expectations of the university.

5.2. Financial autonomy is the capacity of the academic community to decide on the amount and type of public and private funding, to maintain a budget surplus, to borrow money or to charge students tuition fees.<sup>6</sup> The risk of an unreasonable limitation on financial autonomy may increase if the BoT has overly broad powers to decide on budgetary matters related to education or research.

To sum up, for organizational, operational and financial matters, the assessment of the scale of authority depends on the extent to which a BoT is obliged to take into account the opinion and proposals of the academic community, namely the senate. In theory, there are different degrees of risk that coexist with factors that may possibly harm the research and educational autonomy of the university. Purely non-academic boards of trustees and those where academics are in the minority can be considered risky. If there is no (or only weak) rules on merit-based criteria for BoT membership, this may result in an unpredictable quality of the decisions it will take, due to uncertainty as to the professional quality of the trustees. Another uncertainty regarding the professionalism and operational stability of the board may result from a low number of trustees, while appointing trustees for life or for an unreasonably long time (10 years or more) can lead to other governance problems such as weak accountability.

The results of the research on the external BoTs of the top 100 universities of the QS World University Ranking 2022 can be summarised as follows: Trustees representing the university's scientific community are usually included on the boards, and, indeed, on most of the boards they are in the majority. Only a few of the BoTs were composed entirely of non-academic members, nor were many of them all academics. Among the world's top 100 universities with purely non-academic BoTs, or with BoTs in which academics are in the minority, Harvard, UCL, Imperial College London, the University of Pennsylvania and Stanford (US) are included. BoTs where academics are in the majority or where all the trustees are academics include Oxford University, Cambridge University (UK), the University of Chicago and the National University of Singapore.

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5 EUA University Autonomy in Europe, The Scorecard IV. March 2023. 20.

6 EUA University Autonomy in Europe, The Scorecard IV. March 2023. 30.



The board trusteeship is partly based on the co-optation of the trustees and partly on the delegation of the university, but in all cases merit-based criteria are regulated in detail in the board's founding documents. The number of board trustees varies between 20 and 40 persons, which aims at enhancing both professional diversity and the legitimacy of decisions taken. Trusteeship is based on fixed-term mandates, thus periodic rotation, accountability and renewal of motivation are ensured. The activities of the BoTs include devising strategies for development, deciding on university policy issues and maintaining funding security. The board rarely takes decisions on the organizational, operational and financial details of the university.

Among the world's top 100 universities, there is a wide range of authority models from policy-maker-type to ruler-type BoTs. For most of non-academic type BoTs, however, the rules provide for mandatory co-decision-making, for a consultation process with academics or with the senate of the university, in particular in research and education matters, e.g. at UCL (UK), Stanford and Harvard.

The remainder of this study will analyse concerns about the research and educational autonomy of universities in relation to excessive authority of BoTs to make operational, organizational and financial decisions, in the Hungarian context.

## **The research-education autonomy test applied to the new Hungarian university governance model**

As discussed above, the EUA has argued that the new university governance model in Hungary implemented since 2019 has shown significant divergences from the governance practices of European universities. This study has examined in detail the divergent points of Hungarian BoTs from the general practices of the top 100 universities. It is worth noting that the BoTs of the "model-changing" Hungarian universities are still in the learning stage, and that the frameworks provided by the law and the practice of new governance are still developing. Based on the current situation, the following conclusions can be drawn from the 5-REACT test:

1. In Hungary academic trustees on the BoTs are usually in the minority, usually 1 or 2 out of 5 trustees. Between 2019 and 2021, board members were appointed by the minister responsible for Higher Education at the time of the establishment of the BoTs, while in the future new trustees will be selected (co-opted) by the BoTs themselves. There are no legislative or internal regulations on the professional qualifications of trustees. However, due to the EU Commission's concerns about the board membership of ministers and active government politicians, many of them resigned from the BoTs in February 2023.
2. Currently there is no legislation setting the criteria for BoT membership, nor is there any internal regulation of BoTs, although the founding document may set requirements regarding the qualifications, educational and professional backgrounds of BoT trustees. In 2022, some minor legislative changes were made to provide conflict of interest rules for trustees: "[a] person who is unable or only limited to carry out



his duties impartially, objectively and impartially due to his economic interest or any other direct or indirect personal interest or circumstances (including family, emotional reasons, political or national affiliation) is obliged to refrain from any activity which may be contrary to the interests of the foundation or the affiliate, or directly or indirectly providing assets to all of them.” (IX. Act of 2021 sec 15 (3))

3. According to the Act, the mandatory number of trustees of the BoTs shall be five.
4. The term of membership is not limited by law, and due to the lack of regulation the founding charters stipulate trustee mandates of indefinite durations. However, in March 2023 the government announced a proposal for new legislation which would set a time limit for the mandate of trustees, in response to criticism from the EU Commission in this regard.
5. The decision-making authority of the BoTs applies to all organizational, operational and financial issues of the university, including educational and research programmes. In 2021, the HCC requested that the legislator restrict the decision-making authority of the BoTs so that they can only decide on the budget and the rules of the organization and operation of the university if the senate may have a “substantive influence” (the right of opinion) on the decision-making of BoTs. The legislator amended the regulation accordingly [IX. Act of 2021 sec 22. (4)].

In its report, the EUA recommended that Hungarian universities be formally involved in the selection of the members of the board of trustees. It also urged the Hungarian state to re-design the balance of powers between the BoT and the university senate to ensure a clear allocation of competences, guaranteeing that the university senate can rule on academic matters without being subject to a derogation clause in the law.<sup>7</sup>

The following section analyses how the authority of newly established BoTs over the organizational, operational and financial matters of the universities having “changed models” is being subjected to constitutional scrutiny by the Hungarian Constitutional Court.

## University autonomy on constitutional trial

A recent HCC decision, mentioned above, ruled that in universities maintained by PITs, BoTs can take decisions on major issues related to the operation of the university on the strict condition that they provide “mere influence” in the decision-making of the university’s senate.<sup>8</sup> Based on this case law, it is worth investigating the autonomy requirements of constitutional compliance in cases where the BoT rejects an opinion or proposal made by the senate. The HCC developed the concept of the “limited autonomy” of universities. Limitations may result from parliamentary legislation, from the university’s maintainer (BoTs or government) or from other stakeholders. A university and its senate are never “totally autonomous”, since the responsibility for education and research is always shared with other stakeholders. The maintainer has a primary liability that cannot prevail if the maintainer is not

<sup>7</sup> The Evolution of University Autonomy in Hungary: A Complementary Analysis to University Autonomy in Europe IV: The Scorecard 2023. 11.

<sup>8</sup> Hungarian Constitutional Court Decision No. 21/2021. (VI. 22.)

given ultimate decision-making power. The HCC concludes that the responsibility of the maintainer “precedes” the responsibility of the senate, therefore the BoT should be given decision-making powers extending to all essential matters of the university. The question that remains concerns the “minimum of autonomy” i.e. the minimum rights of the senate to express its opinion on the decision-making process of the BoT. The “relativist” interpretation of university autonomy means that university autonomy constitutes a certain level of independence from stakeholder intervention that is necessary for the university to independently regulate its own internal organizational functioning (internal allocation of financial resources, acquisition of non-state revenue, hiring of staff, provision of educational conditions, organization of education and research). At this point it is worth referring to the definition of the IAU: “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 the conditions of study and, finally, the freedom to conduct teaching and research”.<sup>9</sup>

The central idea is that the “necessary degree of independence”, i.e. the independence of the university, can be limited to this level. The HCC developed a minimum requirement for the “necessary degree” in such a way that the senate must be given a right to give an opinion on and influence those BoT decisions that affect academic autonomy. The question is whether the maintainer has the right to decide differently or contrary to the opinion of the senate. According to the HCC, the BoT is entitled to do so, although the senate’s proposal “must be taken into account in a transparent manner by the maintainer in its decision-making”. Accordingly, the BoT is obliged to demonstrate that the senate had an opportunity to “merely” influence the BoT’s decision on the operation of university (HCC p. 25) as well as on matters relating to research and teaching autonomy (HCC p. 26).

It remains unclear whether the maintainer must accept the substantive opinion or proposal of the senate or whether it can reject them in whole or in part. In our view, the HCC’s decision did not clarify this issue, as it remains open to two interpretations. One approach would be that the maintainer is bound by the senate’s proposal; i.e. the BoT must accept and enforce the senate’s proposals (obligation of enforcement). The other reading would be that the maintainer’s obligation to “take into account” the senate’s proposal means that it is allowed to reject a proposal if it does so in a transparent and reasonable manner (obligation of consideration). The substantial difference between the two kinds of obligations of the BoT is evident. However, both can be seen as “mere influence” of the senate on the decision-making of the BoT. For example, if the senate expresses its opinion that the university should have a History of Science Department, but the maintainer (BoT) replies that it is not necessary

9 International University Association Policy Statement 1998: Academic Freedom, University Autonomy and Social Responsibility.

and rejects the proposal with appropriate reasoning, the HCC will find that the BoT acted in accordance with the principle of academic autonomy, as it took the senate's proposal into consideration. The concept of "obligation of consideration" seems to be the "reasonable degree" of limitations on academic autonomy cited by the HCC. This concept refers to two conjunctive conditions. First, the BoT must conduct a meaningful exchange of views with the senate and consider its proposals in a documented manner. Second, if the maintainer makes a decision that differs from or rejects the opinion of the senate, this should be based on substantive reasons.

At this point, however, we must return to the constitutional content of research and educational autonomy. If the disagreement of the maintainer and the senate concerns the content and methods of research and teaching (under Article X (3) of the Fundamental Law), or scientific matters and the freedom of researchers (protected under Article X (2) of the Fundamental Law), it would be contrary to the Fundamental Law if the opinion of the senate, as the custodian of educational and research autonomy, were to be rejected or distorted by the maintainer. This brings us back to the paradox of how educational and research autonomy can prevail if the maintainer decides differently from the position of the senate. The answer depends on the content of the decision of the BoT and the reasoning for it. Based on the "substantial senate influence" requirement developed by the HCC, the reasoning of the maintainer's decisions must be subject to a double substantive criterion: a decision by the maintainer that differs from or rejects the senate's opinion can only be considered constitutional if (1) it has documented reasoning of essential interests related to university research and education, and (2) the decision does not affect the content, methods and scientific issues of research and teaching. Both aspects require a very thorough formulation of the justification and assessment provided by the BoT.

## Conclusions

It is increasingly important to understand the changing social roles of universities and higher education policies reflecting to these changes. Recent changes are heading in two dimensions: the nature of production (product/process), and the relation to the social, economic and political system (consensus/dissensus) (Kováts, 2021: 76). The above trend, seen in universities changing from a public to a private model, heightens the importance of assessment frameworks and academic autonomy tests to scrutinise the authority and activities of university BoTs. The evolving Hungarian situation may enrich theoretical debates on how the authority of BoTs affects academic autonomy and also highlight the threats that BoTs may pose to universities' academic autonomy. Currently, Hungarian BoTs still seem to be in the critical range of the research and teaching autonomy, and it would be desirable to enhance the influence of the university senates on BoT decisions. However, despite risks arising from the current regulatory framework for the operations of BoTs, one cannot predict how the culture and practice of the newly established BoTs will evolve over time in terms of academic autonomy in Hungary.

In a constitutional analysis, the enforcement of academic autonomy through both the senate and the autonomy of the maintainer at the same time seems to be paradoxical if there is a difference of opinion between the two bodies. This study aimed to develop the preconditions and a conceptual framework for resolving this paradox. The answer ultimately depends on the interpretation to be delivered by the ordinary court in the near future. If judicial practice follows the “formal” approach to university autonomy, the “obligation of consideration” of the senate’s proposal by the BoT may satisfy the constitutional requirements even if the maintainer does not agree with the senate. The “constitutional requirement” imposed by the HCC left the above question open for judicial interpretation to some extent. We might prefer a situation in which there was no need to set another precedent and where maintainer/senate “tandems” could build universities together in collaborative way. A constitutional interpretation of university autonomy would require clear legal concepts and ordinary courts, or ultimately another constitutional court decision that would end the current autonomy debate.



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# ИСКУШЕЊА МАЂАРСКИХ УНИВЕРЗИТЕТСКИХ РЕФОРМИ Управни одбори и парадокс аутономије универзитета

**Апстракт:** Ова студија истражује могуће негативне ефекте које управни одбори (BoTs) приватних универзитета имају на академску аутономију. Временом су западни универзитети развили модел са разумним степеном подељене одговорности између управних одбора и универзитетске заједнице. У последње време мађарски јавни универзитети који прелазе на приватни модел уче како да боље поделе одговорност између управних одбора и њихових универзитета. Студија има за циљ да осмисли нови тест академске аутономије заснован на анализи искуства 100 најбоље ранжираних универзитета на QS листи са управним одборима. Овај тест ће помоћи да се постигне боље разумевање ситуације у којој се налази 21 мађарски јавни универзитет који је влада недавно трансформисала у приватне институције. Испитивање ових мађарских случајева може обогатити теоријске и правне дебате о ефекту управних одбора на академску аутономију приватних универзитета, иако то може довести до даљих парадокса.

**Кључне речи:** АКАДЕМСКА АУТОНОМИЈА, УНИВЕРЗИТЕТИ, УПРАВНИ ОДБОР, МАЂАРСКО ВИСОКО ОБРАЗОВАЊЕ, МАЂАРСКА ВЛАДА, УНИВЕРЗИТЕТСКА ПОЛИТИКА.