

Note on the External Review Report of UNIBASQ

Firstly it is worth noting that the present situation of UNIBASQ does not result from the impact of a previous review ; the changes that have been made since 2009 to the legislation and regulations of the agency were carried out in anticipation of its candidacy to ENQA. Throughout this process the agency has benefited from the experience of other agencies, in particular Spanish ones, as well as from publications of ENQA.

Official regulations and Statutes (Law 13/2012, 28 June, Decree 204/2013, 16th April) have been adopted for these purposes. As the result of extensive discussions concerning all the main aspects of the structure and operations of the Agency, they make explicit references to the ESG, and in general to criteria and processes which are internationally recognized. They provide a number of guarantees of independence.

Of course, as for all agencies, the sheer existence of protecting legal structures is not in itself enough to guarantee good practice. However the implementation of all these legal dispositions has been cross-checked by the panel, especially those concerning independence, with all the groups met during the site visit. All interviewees confirmed that practices conform to these legal principles and that other stakeholders are not interfering with their tasks.

1. Structure of Unibasq

There is a clearcut distinction of roles and tasks between governance and operations and between the roles of the Governing Board , the Director, and the technical bodies of the agency (Advisory Board and Evaluation Committees)

The Governance structure includes several safeguards so that the stakeholder involvement at Governing Board level does not influence the autonomous responsibility for the agency's operations, nor does it influence the outcomes of quality assurance procedures.

1.1. The members of the Governing Board are:

- The Chairperson, who is the minister of the Basque government's department responsible for universities or the person delegated by him/her.
- The deputy-minister of the Basque government's department responsible for universities or the person delegated by him/her.
- The director of the agency.
- The rectors of the three universities of the Basque university system:
 - A person with recognised academic merit appointed by the rector of the University of the Basque Country.
 - Six persons appointed by the Basque University Council by a majority of three fifths of its members: 3 from outside the Basque Autonomous Community (one of them working outside Spain), 2 from outside the university Community. The external experts are proposed by the Basque University Council, but act in their own name.
 - One student member, elected by the specific body for the participation of Basque university students.

At the level of the Governing Board, the panel judges the balance between representatives of the Government (2), rectors of the universities (3), students (1) and external experts (6) as being reasonable.

The Governing board members cannot be dismissed at will without clearly defined conditions (Statutes 9.6).

They cannot be members of the Advisory Board (with exception of the Director who chairs it) nor of the Evaluation Commissions, nor participate in any activity of evaluation or accreditation conducted by the Agency.

The Governing board can meet anytime for special sessions, not only at the request of its President and Director, but also at the request of $\frac{1}{4}$ of its members.

Decisions are taken by a majority vote, with exception of modifications of the Statutes (by a $\frac{2}{3}$ majority).

With exception of the three rector members of the governing Board, there is no participation on the Board, or on the technical bodies of the agency, of any person holding a single-person managerial position in an HEI that can be being evaluated by UNIBASQ.

1.2. The Director

He/she is appointed by the Governing board, on the proposal of the President. He/she cannot be dismissed before the end of his 4 years mandate without clearly defined conditions related to severe, repeated and deliberate failure to implement his functions and duties (Statutes 13.3)

1.3. The Advisory Board

The members of the Advisory Board are the Agency's Director, who chairs it, and ten persons with a proven track record in academia or quality assurance who are appointed by the director. The majority of members of this Board must be from outside the Basque University System. Three of its members must carry out their work outside Spain.

During their mandate (maximum three years, with a 50% change every two years) they cannot be dismissed without clearly defined conditions (Statutes 16.2.)

The panel considers that the composition of the Advisory Board and the guarantees of independence of its members are a satisfactory safeguard to balance the possible risk of a conflict of interest in the fact that the Chair, being the Director of the Agency, is at the same time a member of the Governing board.

The panel considers that the composition of the Advisory Board ensures the quality and credibility of the Agency's activities :

- the advice to the Governing Board and the Director on the development and approval of all the evaluation procedures and criteria to be used by the Agency (that must be consistent with those used in the EHEA) ;
- the submission of proposals for the appointment and the dismissal of members of the Evaluation Committees (vote of $\frac{2}{3}$ of the members) ;
- the safeguard of the impartiality and objectivity of the evaluation, accreditation and certification procedures.

1.4. The Evaluation Committees

They are the scientific/technical bodies through which the Agency performs its evaluation, accreditation and certification functions. Each Evaluation Committee is made up of academics with a proven track record (a majority of them have to be from outside the Basque University System), a student (in evaluation schemes that may have a direct impact on students, but not in evaluation-accreditation of the teachers-researcher, nor of non-teaching staff), and wherever possible professionals with a proven track record in the knowledge area to be evaluated.

During their mandate (three years, without possibility of a new appointment before a period of three years) they cannot be dismissed without clearly defined conditions (Statutes 19.6)

2. Operational independence

2.1. Statutes (13 5.) specify that the Agency has to publish beforehand the evaluation protocols, the criterias to be used and the composition of the evaluation committees.

The procedures and methods are subject to formal publication in the Official Journal of the Basque Country in order to have legal status. Nevertheless, the procedures are defined by the Advisory Board and no influence is exercised by the Government before publication.

2.2. The nomination and appointment of external experts

The panel considers that the way in which the various committees and experts are selected and operate fulfils the requirements of independence (see Protocol for selecting Unibasq Expert) since it is based on the competence of judging bodies and individuals and on the principles, standards and guidelines provided by the ESG.

They have to carry out their work in their own name with independence of judgement, rather than as representatives of the group or institution to which they may belong.

Students must be from a university other than the one to which the qualification being assessed belongs.

2.3. The final outcomes of quality assurance processes

They are fully defined by the Evaluation Committees. No other body can change the decisions of the Evaluation Committees.

Statutes 7.– the Evaluation Committees are to act with full independence and the results of their evaluations cannot be altered by any other body of the Agency.

Statutes 8. The Agency has to publish the results of evaluation, accreditation and certification.

The panel considers that the legal framework, the Statutes of Unibasq and the rules concerning the internal distribution of tasks and the procedures provide strong safeguards for the operational independence of Unibasq, as described in detail in the review report.

2.4. These principles are reasserted in the code of ethics : All Unibasq members and staff who collaborate with it have to sign a declaration confirming their adherence to the code of ethics

Article 8: Independence : Unibasq shall, freely and independently, act in compliance with it's obligations in order to conform to the purpose for which it was set up and the professionalism and credibility of its actions. Unibasq shall not allow any external pressure, influence or intervention to influence the rigour of the criteria, opinions and principles governing its actions.

Article 9: Transparency : Unibasq shall provide clear notification in advance about the information required for the assessment criteria and processes, procedures, printed matter, forms and tools it uses in its assessments and activities, and shall not conceal any information to which users of its services may be entitled.

Article 12: Impartiality and neutrality : Those persons who provide services for Unibasq shall strive by all means to be neutral and impartial in their opinions; they shall not express opinions either in favour of or against persons who take part in processes related to services rendered by Unibasq, and shall refrain from participating in any activity in the event that a conflict of interests is detected. In the case of possible situations where a conflict of interest is detected that may influence the quality of its services, those persons who make up the agency bodies should carry out their work in its name and with independence of judgement, rather than as representatives of the group of which they form a part.

3. Financial independence

The legal framework establishes that "the general budget of the Basque Autonomous Community shall allocate to the Agency the resources it needs to perform its functions in accordance with a multi-annual programme-contract."

This multi-annual programme-contract increases, in the opinion of the panel, the predictability of incomes for Unibasq and its ability to plan and act going forward. It thus contributes to maintaining financial independence at a satisfactory level.

Nevertheless, the review panel suggested that Unibasq diversify its sources of income in order to further increase its independence.

Conclusions

- The composition of the Governing Board guarantees a balance between different stakeholders. The number of government-HE administration members is limited. The Advisory Board consists of independent national and international experts and is the body responsible for defining the procedures.
- The provision that no decision can be changed by another body of the Agency has been mentioned several times as to be very instrumental in guaranteeing independence in decision making.
- The importance of the legal framework shaping the agency might appear as a limitation to independence but in fact, in a latin legalist culture, it is viewed as an instrument to consolidate settings and processes, aimed at guaranteeing the autonomy of the Agency, and not interfering with the decisions it takes. These are normal and very common features in other Spanish agencies.

- The comparatively small size of the Basque HE system and geographical area might convey an unwarranted impression of lack of autonomy. The Agency is working within a system and an area characterized by a very strong identity and commitment of its stakeholders. It is necessarily close not only to government, the HE administration, and the HEIs, but also to the society at large and stakeholders external to the HE System. During the review, the panel has indeed noted strong support from all stakeholders for Unibasq to become a full member of ENQA.

- The advice of the panel is that these specificities do not have negative consequences for the operational independence, which is both legally and practically protected.

The panel understands that an appraisal of « substantial » rather than « full » compliance could be seen as more appropriate, but certainly not « no », nor even indeed « partial » compliance. The difference between « substantial » and « full » compliance is a thin line. The panel discussed this issue : it might have taken more account of possible effects of the proximity and the specificities in the social environment on the agency, but it hopes to have clarified in the report and the additional detailed discussion in this note why it finally gave an appraisal of full compliance for ESG 3.6.

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