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Reflections on performance agreements in higher education

Practical considerations in delivering system-wide improvements

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Abstract

In this working paper we reflect upon performance agreements in higher education (HE): during the last decade, performance-based steering tools were introduced or reformed in almost every higher education system. They are regarded as a promising instrument to contribute to the achievement of high quality higher education, but in countries that have a longer history with performance agreements (such as many U.S. and German states, Austria, Finland and Denmark) sometimes significant changes have taken place between generations, and we want to understand why this is. With this working paper we highlight a number of key issues to be taken into account when the introduction or evaluation of performance agreements is being considered. We have gathered information (from laws, white papers, websites of governments and institutions, and expert interviews) on a range of higher education systems alongside a general literature review. We argue policy makers should not to copy 'blindly' the design and implementation of performance agreements from other countries, as their culture, political and legal system, policy style, size, HE system characteristics and strategic agendas are different. Nonetheless, experiences from elsewhere are an important source for inspiration and a valuable input.

Keywords: higher education funding, higher education systems, state-university relationships, meta-review, steering in higher education

Introduction

In this working paper we reflect upon performance agreements in higher education (HE). Governments are continuously in pursuit of effective policy instruments to steer their national higher education system. During the last decade, performance-based steering tools were introduced or reformed in almost every higher education system. In countries such as Australia, Ireland, Scotland and the Netherlands, performance agreements have become examples of 'new' instruments in the government's toolkit. They are regarded as a promising instrument to contribute to the achievement of higher education's three main goals, namely delivering education and research that is of high quality, efficiently produced, while securing equity in the system. In countries that have a longer history with performance agreements (such as many U.S. and German states, Austria, Finland and Denmark) performance agreements tend to stay, although many, and sometimes significant changes have taken place from one generation of performance agreements to the next. This 'mood of change' can have different reasons. Changing circumstances, including cabinet change, can demand 'action'. It could also point to an insufficient understanding of the design and implementation of performance agreements.

Our working paper emerges from a report which was designed to feed into discussions in Norway on the introduction of performance agreements as a tool to steer the Norwegian higher education system. Based on a general literature review as well as on analyses of existing systems of performance agreements we present some 'food for thought' for the debate in Norway on this issue. We have gathered information (from laws, white papers, websites of governments and institutions, and expert interviews) on higher education systems in the United States (the states of Louisiana, South Carolina, and Tennessee), Australia, Hong Kong, Austria, Denmark, Finland, Germany (North-Rhine Westphalia, Thuringia), Ireland, the Netherlands, and Scotland.¹ Moreover, we used the outcomes of two recently held conferences on this topic.²

Clear-cut conclusions in the form of 'recipes' are hard to make. Design, process and implementation of performance agreements in HE, as well as opinions and perceptions about them greatly differ and there is no compelling evidence on what works well under which conditions. 'Context matters', and given the uniqueness of each higher education system, experiences from elsewhere always must be interpreted with care. Therefore, our first recommendation would be not to copy 'blindly' the design and implementation of performance agreements from other countries, as their culture, political and legal system,

¹ Data on these countries has been collected by the following CHEPS staff members: Paul Benneworth, Harry de Boer, Leon Cremonini, Ben Jongbloed, Renze Kolster, Andrea Kottmann, Katharina Lemmens-Krug and Hans Vossensteyn over the period July-December 2014.

² Country-focused workshop in The Hague (25-26 September 2014) on "Performance agreements and their relationship to funding in higher education" and Meeting of the Directors General for Higher Education in Palermo (20-21 October 2014) on "Performance oriented funding policies in higher education: modernization as sustainability".

policy style, size, HE system characteristics and strategic agendas are different. Nonetheless, experiences from elsewhere are an important source for inspiration and a valuable input. With this working paper we want to highlight a number of key issues to be taken into account when the introduction or evaluation of performance agreements is being considered.

What are performance agreements?

Performance agreements are contracts between the government and individual higher education institutions, which set out specific goals that institutions will seek to achieve in a given time period.³ It concerns intentions to accomplish given targets, measured against pre-set known standards. Performance is deemed to be the fulfilment of an obligation laid down in the contract. In contemporary higher education we can find these kind of agreements under different labels and headings. Apart from performance agreements/contracts there are compacts (Australia, Ireland), target agreements (some German states), outcome agreements (Scotland) or development plans (Hong Kong, Denmark).

Such a description of a performance agreement immediately raises interesting questions. Firstly, to what extent does this description differentiate between the prescription of a certain outcome (a result that needs to be achieved) and the effort an actor reasonably has to make (a 'guide for behaviour'; a level of effort an actor is capable of bringing to an activity). Such a difference refers to the distinction between 'hard' and 'soft' contracts. The nature of performance agreements in use in higher education indicates that both forms of contracts exist.

What counts as a performance is often a matter of taste. Is attracting international students a performance? Is employability (in the sense that graduates find suitable employment soon after graduation) a performance to be attributed to an institution? Is maintaining minimal quality standards in education a performance? We would argue that performance is goal- or problem-oriented, result-based and measured against pre-set standards. These standards are the result of a political decision, a negotiation process among stakeholders, or a benchmark (where a standard means doing better than others).

Secondly, does this description of performance agreements imply that the agreements are coupled with (public) funding? Can one speak of performance contracts if no funding is attached to the agreements? If there is no funding linked to the agreements made between the government and the institutions we would rather speak of 'letters of intent' instead of

³ Key Findings from the ET2020 country workshop in The Hague (25-26 September 2014) on "Performance agreements and their relationship to funding in higher education"

'performance contracts'. It implies that the contract partners agree to focus on certain activities (i.e. make a serious effort) with the aim to accomplish particular goals, without direct financial consequences. Following such a distinction in contemporary higher education we have come across both letters of intent (Denmark, the Netherlands in the past, Australia today) and performance contracts (Austria, Ireland, Finland, the Netherlands today). In some countries we find contracts that contain both intentions and (hard) performances.

The aims of performance agreements

Our data on performance agreements also demonstrates that governments have different reasons to introduce performance agreements. Performance agreements can have the following aims:

1. To encourage institutions to strategically position themselves. This is known as institutional profiling. Performance agreements are expected to contribute to establishing a diversified higher education system - the bilateral nature of the agreements should enable this.
2. To establish and/or improve the strategic dialogue between the government and the institutions, with the intention to align national and institutional agendas, policies and activities.
3. To improve the core activities of the institutions, which can refer to a higher quality of teaching, research and outreach, higher levels of productivity, or securing minimum standards (by means of weeding out underperformers).
4. To increase the efficiency of the institution's activity. The specification of targets and indicators related to completion rates, drop outs, or time to degree is an example.
5. To inform policy makers and the public at large on the system's and the institutions' individual performance in return of public subsidies (accountability and transparency).

Before parties actually start contract negotiations on performance contracts of some sort they not only must have defined their own goals, but first and foremost understand the rationale for the contractual relationship. This rationale is important as it will impact on the design, the process and the evaluation of the policy tool. To improve the dialogue between the government and the institutions, soft agreements such as letters of intent may work better than hard (cash-based) contracts that make institutions think twice before they will sit around the table. To determine whether or not the performance agreements are effective (in terms of goal achievement) will depend on the goals – or 'the problem to be fixed'. It is likely that governments will have several aims in mind when they introduce performance agreements. Perhaps needless to say that this affects design, process and evaluation.

Ad 1. Institutional profiling and system diversity

The first aim – to use performance agreements to establish or maintain a diversified higher education system – is found in a number of countries we focused on (e.g. Austria, Ireland, Germany, Finland and the Netherlands). The virtue of a diversified higher education system is a well-recognised goal.⁴ Performance agreements are thought of as fitting this goal well. The Austrian Wissenschaftsrat concluded that such agreements do contribute to a more diversified Austrian higher education landscape. Experiences from other countries however reveal that this is not by definition the case. The Finnish case shows that performance agreements (and the performance-based funding models attached) have indeed stimulated institutional profiling, but at the same time this has not led to a more diversified system. From Germany we learn that, because institutions must respond to the same issues, the agreements may have led to homogeneity instead of heterogeneity at the system level. Literature on the ‘diversity debate’ suggests that, if institutions are rewarded in the same way for the same outputs, then they will inevitably seek the same ways of maximising their income. And when targeted funding policies do not have explicit diversity objectives, they risk promoting institutional convergence.⁵ As regards the design of performance agreements, this should be taken into account.

Ad 2. Improving dialogue

The second aim for developing performance agreements – improving dialogue – can also be found in several countries, particularly in those countries where there is, in a comparative sense, hardly a tradition in the sense of a relationship between the government and the institutions that is characterised by dialogue. This is the case in countries with traditionally either strong government regulation or high levels of institutional autonomy. The rationale of performance agreements is to develop a context where government and institutions meet to discuss how institutions can (or have to) contribute (better) to the national agenda for higher education. The experiences indicate that performance agreements, particularly the softer versions such as letters of intent, are a promising stepping stone to improve interaction and to create common ground for aligning agendas and seeking consensus. Examples are Ireland and Scotland. In other countries, such as the Netherlands, the perception is that this should be considered only as a first step. For ‘real impact’ more focused tools (and linking the agreements to money) are required.

⁴ The following quote from Europe’s Modernisation Agenda is illustrative and picked up by many countries: *Europe needs a wide diversity of higher education institutions, and each must pursue excellence in line with its mission and strategic priorities. With more transparent information about the specific profile and performance of individual institutions, policymakers will be in a better position to develop effective higher education strategies and institutions will find it easier to build on their strengths. (European Commission).*

⁵ See: Codling, A. and Meek, V.L. (2006). ‘Twelve Propositions on Diversity in Higher Education’, *Higher Education Management & Policy*, vol. 18, issue 3, pp. 23-47.

Ad 3 & 4. Improving core activities: quality, productivity and efficiency

Despite the fact that there is no compelling evidence about the relationship between performance agreements (or performance-based funding) and quality, productivity and efficiency in higher education, we have seen that in several countries improvements in these three areas have been reported in the years following the introduction of performance agreements. In Denmark, the universities' third party income as well as their publication outputs increased since the introduction of development contracts. In Finland, the introduction of performance agreements appears to have contributed to an increased cost and performance awareness. In North-Rhine Westphalia (Germany), internal university decision-making has been positively affected. Both in Louisiana and Tennessee (United States) graduate numbers have gone up.

Ad 5. Accountability and transparency

Monitoring and reporting on progress and performance targets can be used for reasons of accountability and transparency. In some countries this is one of the aims that is explicitly stated. Most countries indicate that performance agreements do contribute to more transparency and better accountability (unless the outcomes of the evaluations are not made public). It is common that institutions must report on their performances in annual reports. Performance agreements come along with a requirement to report (annually) on progress and performance. In some countries, independent bodies play a role in the assessment of the performance agreements (for example in the Netherlands and Hong Kong).

Performance agreements and other policy instruments

Performance agreements are always used alongside other policy instruments. For example, the agreements could be linked to (performance-based) funding models. In some countries there is a direct link between the targets set in the performance agreements and the core funding allocated to the institutions (e.g. Austria, Finland). In other countries, core funding and performance funding are treated separately (e.g. Louisiana). And there are countries where performance agreements and core funding allocations are not linked to each other (no immediate funding coupled to the agreements, e.g. Denmark).

Performance agreements can also be linked to, or be affected by, quality assurance systems, student selection mechanisms or the results of particular data collections (such as student satisfaction surveys). In Hong Kong, the Research Assessment Exercise is an example of the linking of performance agreements and evaluation instruments. Also in other countries research assessments (bibliometric tools to assess research productivity or research impact) are connected to performance agreements. The interplay of the different policy instruments requires careful consideration as it may have unintended consequences. We will give two examples.

Firstly, when institutions can select their students they may adjust their admission policy as the result of performance agreements. They may decide to be less restrictive in order to meet the targets agreed upon (e.g. contributing to a widening access agenda). Or they may decide to be more restrictive and only pick the brightest students ('cherry picking', to meet completion/graduation targets). The latter was the case in Tennessee, where this interfered with the government's objective to enhance educational attainment.

Secondly, the interplay of different policy tools can lead to duplication and overlap. Reporting requirements flowing from the performance agreements can add an additional accountability layer. Performance agreements, particularly when they are comprehensive, focus on institutional profiling or, being part of stimulating the dialogue with the government, can overlap with strategic plans of the institutions. This is the case in the Netherlands and Ireland. This may produce complaints with the institutions - as voiced for example in Austria as well as in Denmark. As a result of that, amongst other things, in Denmark the development contracts have changed from 'comprehensive strategic plans' to 'selective mission-based contracts'.

Performance agreements and institutional autonomy

During the last two decades, authorities and responsibilities among stakeholders in higher education have been redistributed. An overarching trend in European higher education governance has been to enhance the autonomy of the higher education institutions.⁶ It is debatable to what extent higher education institutions perceive this autonomy to be real, and the introduction of performance agreements can be part of such a debate. In several countries it has been argued that, despite devolving several authorities to the institutions (which is undeniably true in most countries), performance agreements are just another way for the government to stay in control. Performance agreements stress the resource dependency of institutions and limit the room for making their own choices. This form of conditional funding stand in contrast to lump sum funding, which fits institutional autonomy best. Performance agreements, it may be argued, underline the saying of "he who pays the piper, calls the tune".

There certainly is a tension between performance agreements and institutional autonomy, but the nature and extent depends on the design, process and implementation of the performance agreement. As regards the room left to the institution to make its decisions and trade-offs, the depth and scope of the agreements are crucial. The more comprehensive the agreements and the greater the level of detail, the more they will intrude on the institution's autonomy. And the less institutions are engaged from the

⁶ See for example de Boer, H., J. Enders, J. File and B. Jongbloed (2010). *Governance reform. Progress in higher education reform across Europe*. Volume 1: Executive summary main report. Brussels, European Commission.

outset in the design and implementation of this steering tool, the stronger this perception of governmental control over the institutions will be. If, however, performance agreements are perceived as a true joint effort in which both parties can express their interests on a limited number of issues that leave institutions some room on how to approach them, this perception will be different.

Transaction costs

Designing performance agreements, and the monitoring and evaluating of the agreements requires significant efforts from various actors (government, institutions, agencies, experts). In designing the agreements, the government, usually in consultation with the higher education institutions, not only has to develop a rule system, procedures, guidelines and templates, but also needs to have or to establish a national agenda from which the key issues have to be negotiated. Without a clear vision on what the government intends to achieve, agreements are unlikely to be very effective. "If you do not know where you are heading for, it will get you anywhere". It will make the whole exercise pointless and will easily lead to frustration. Also the institutions have to think strategically and must translate their vision and goals into negotiable issues for the agreements. In several countries the strengthening of the strategic capacity of the institutions has been one of the (side) goals of establishing performance contracts. Examples are Ireland and some German states. Developing these capacities, as well as the dialogue and negotiation process between government and institutions, possibly facilitated by an independent body, is a time-consuming process by itself.

The monitoring of and reporting on progress and outcomes is another challenge. Consent on indicator measurement, establishment of (undisputed) databases, frequency and level of detail of reporting may cause another time-consuming hurdle. Additionally, the follow-up on the outcomes and determining of impact requires careful consideration as well. It is not always obvious why particular goals laid down in the agreement have not been achieved, particularly but not only in the case of qualitative targets and indicators. Even when non-realisation of targets can be determined, it may be hard to answer the question 'who is to blame'.

It has not been possible for us to make a fair comparison on transaction costs between performance agreements and alternative policy instruments. We argued above that performance agreements have considerable transaction costs. In several countries, higher education institutions complained about the administrative burden attached to the instrument. However, alternative instruments would require, at least to some extent, a similar kind of monitoring and evaluation effort, the costs of which also are unknown.

Performance agreements deal with projected outcomes

Ex ante or ex post funding?

Performance agreements cover targets and activities that are supposed to be realized in the (near) future. The purpose of such an agreement is to define both parties' responsibilities with respect to a desired set of outcomes. If funding is attached to these projected outcomes, the next question is when the actual funding takes place. This can be done prior to the achievement of the performance (ex ante), in principle with clearance afterwards, or it can be done after the promised performance has been achieved (ex post). When the performance agreements are directly linked to a funding formula, ex ante funding is likely to be the case. One example of performance agreements with ex ante funding is the Netherlands. Amongst other things, the Dutch institutions conditionally receive 5% of their teaching budget on reaching quantitative targets related to teaching. If it turns out that, afterwards, these targets are not met, they risk losing part, or all, of this 5%. This will then be settled ('cleared') in a next round of performance agreements. As far as we can see, ex ante funding for projected performance is the most common, but theoretically it is possible to allocate funds ex post – as rewards (which is for instance often the case when performance-based indicators are used in a funding formula). In this case, institutions would have to pre-finance the activity they need to undertake to accomplish the promised performance.

Legally binding or gentlemen's agreements?

Following up on this, there are a number of related issues. To what extent are agreements between two parties creating an obligation to carry out (or not carry out) a particular activity, enforceable? If performance agreements are legally binding, parties can go to court in case of disputes over 'non-compliance or non-attainment'. Regarding the question whether or not performance agreements are legally binding, we do not have the full picture. In Denmark, the agreements are not legally binding (being 'letters in intent'), in Finland they are. However, we have so far not come across a case where either a government or an institution has gone to court over the performance agreement.

If performance agreements are not legally binding, they must be regarded as 'gentlemen's agreement'. The common opinion is that gentlemen's agreements are only morally binding. This point of view however is not completely undisputed. Consciously made agreements raise expectations that the parties will act accordingly, which inspires confidence not only for the two parties concerned but for third parties as well (e.g. students). If third parties suffer from non-performance, legal action cannot be ruled out (depending though on the legal tradition/system of a country).

Consequences of non-compliance and non-attainment

Performance agreements concern future performance, and because the future is uncertain there is always the risk that promises cannot be kept. This risk of course increases when the performance agreement's time frame is longer. As a result of that, nearly all performance agreements have *ceteris paribus* clauses, stipulating that unforeseen circumstances may lead to changes in the agreements (or are a reason to breach parts of the contract). Another common principle is that contracts can be changed if the two parties agree in mutual understanding to do so.

But even when environments remain largely stable, one of the parties may perform differently from what was foreseen (under-performance or over-performance). We list a number of examples of 'punish and reward' mechanisms. In *Austria*, performance agreements distinguish between foreseeable non-achievements and unforeseeable non-achievements. For foreseeable non-achievements universities have to adjust their planning and structures and have to reserve funds that actually had been dedicated to the non-achieved goals. For unforeseeable non-achievements, universities have to analyse the reasons for the non-achievements and report on the outcomes. In *Thuringia*, the consequences in case targets are not met are described in general terms. If a target has not been realized the institution has to explain why this has been the case and what the institution has done to achieve the goals and targets. The ministry can decide to reclaim the funding as well as reduce funding agreed for a future period. For the performance agreements 2008-2011 this has not been the case. In *Hong Kong*, institutions can be required to return part of the funding. Also current performance can be taken into account in the negotiations about upcoming agreements. If *Dutch* institutions do not meet their targets, they can lose part, or all, of their 'performance-based budget', which is to be settled in a next round of funding. In *Louisiana*, underperforming institutions are denied certain privileges such as raising their tuition fees (5%-10%) or being granted operational, financial and management autonomy. In *Finland*, where performance agreements are legally binding, no cases have been taken to court. The Finnish ministry stresses that issues are settled in dialogue, among other things via dialogue and site visits.

During the country-focused workshop in The Hague (see footnote 2) it has been argued that in order to moderate the impact of financial penalties, governments may consider building transition or improvement periods into cycles of performance agreements. Such a second chance option may imply that institutions will get a "red card" only after a "second yellow card".

Stakeholder participation

Performance agreements are a joint undertaking. Both the literature and the experiences with the performance agreements studied suggest that involving stakeholders throughout the process is important to establish agreements that are effective. This implies that without neglecting the responsibilities of the various parties, relevant groups from the government, the institutions, the academic staff, and student organisations

should be involved in the design and the implementation of the agreements. While the government is in the driver's seat (e.g. developing guidelines and templates), institutional involvement in the early stages of the process will enhance the successful development of the agreement. This implies that institutions not only voice their interests and negotiate about the content of the agreement, but also can express their views and ideas on the guidelines, the criteria, the monitoring system and the way of reporting. One of the issues concerns for instance the measurement of the targets and indicators. Without consensus about how and by whom target achievement will be measured, the outcomes of the agreements will be disputed (and distract from the 'real issues'). While it is plausible that institutions in principle may resist the idea of performance agreements (for example because they feel it intrudes on their autonomy), serious participation and mutual ownership is likely to facilitate the process. Experiences in the U.S. suggest that governments should allow for institutional autonomy.

While participation throughout the process contributes to the acceptance of the idea of steering through performance agreements, 'time to get acquainted' (learning) is another important aspect. In countries with a 'performance agreement history' the actors have become familiar with the approach and will have put the systems and people in place. Some patience as well as a continuous evaluation of the process (are we doing the right things and are we doing them right?) are recommendable.

Besides institutional engagement, also (broad) political support will contribute to successful performance agreements. A minister of education with full political support is better positioned at the negotiation table than a minister who lacks such support.

An interesting idea is to install an independent committee, in which various areas of expertise are represented (e.g. covering teaching and learning, research, student issues, industry needs, institutional strategy). There are several roles such an independent body could have. There could be an independent body for guiding and handling the process (this is for instance the case in the Netherlands). Other possibilities are a counselling role, for example advising on the agreements, or an evaluator role, assessing the progress and outcomes of the agreements. In Hong Kong there is such an independent body.

Trade-offs and dilemmas

There is a long list of trade-offs and dilemmas that designers of performance agreements have to face. Several of these issues have been touched upon above. Preferences depend on the aims of the performance agreements as well as the context in which they are supposed to work. Studying performance agreements from several countries has not revealed a clear pattern. Therefore, we present a list we recommend to be taken into account without stating that one option should be preferred over the other.

Quantitative and qualitative measures

One of the potential advantages of performance agreements over other instruments such as formula-based funding, is that one can decide to take both quantitative and qualitative measures into account. The appeal of having the opportunity of taking qualitative measures on board is that some issues that are deemed crucial for the development of a higher education system at a certain moment in time can be included. The downsides of using (also) qualitative targets is that they are usually less clear and transparent, the transaction costs are (relatively) high, and disputes may arise when the realisation of qualitative targets needs to be assessed.

A strong focus on quantitative measures (or KPIs) has its appeal. They can be SMART, transparent, and create a sense of objectivity (albeit that they certainly are not value-neutral). Assessment of performance is in the case of quantitative measures relatively easy. A clear and visible set of measures, as optimists would argue, stimulates focused action and makes sure that (at least) what is measured gets done. The downside, pessimists would argue, is that *only* what is measured gets done. They argue that institutions will only focus on quantifiable issues and neglect issues that may be just as (or even more) important for higher education. It leads, they argue, to tunnel vision and encourages a limited portrait of actual performance. Performance agreements based on (primarily) quantitative measures are likely 'to hit the target but miss the point'. By explicitly steering on quantitative targets institutions may be encouraged to concentrate on 'easy' targets ('cherry picking'), be inclined to lower quality standards in order to meet targets, or even cheat.

A related issue concerns the level of detail of the measures in the performance agreements. On the one hand there is the option to focus on very specific smart goals. On the other hand, goals and intentions can be (and usually are) formulated in a quite broad sense. The choice for one of these options will largely depend on the aims of the performance agreements. For improving the dialogue and creating mutual understanding of the key issues, reaching consensus on broad goals seems to fit well.

Stability and flexibility

An important reason to establish performance agreements is to create a sense of stability and predictability for the higher education institutions' budget, while simultaneously creating some degree of flexibility is also supposed to be one of its most important assets. The time frame for which performance agreements are concluded usually runs from two to six years. The multi-annual frame is expected to guarantee stability, security and confidence (in particular related to the institutions' future budgetary situation). In principle, the longer the time frame chosen, the higher the potential stability. But because agreements are about future-oriented objectives, a sense of flexibility is felt as well. In some countries, the annual reporting on progress can lead to an adaptation of the institution's agreement (e.g. Scotland). Obviously, this does not contribute to stability and predictability.

Performance agreements are a flexible policy tool in the sense that the content of the agreements from one round to the other can change (without having to go through legislative procedures and processes). The advantage of the instrument is that it can address the issues that are considered to be important in a particular time period. The downside, however, of such an 'ad hoc' approach is that the long term perspective may be overlooked. There is a risk that, because of its flexibility, the recent past and the present situation will attract more attention than the issues that are important for the long term.

Uniformity and specificity

Another crucial design factor for establishing performance agreements is to what extent these agreements should address the higher education sector as a whole, its sub sectors, or individual institutions. In principle, bilateral agreements are suitable for 'tailor-made' contracts, differing in some degree from one institution to the other. For the aim of establishing a highly diversified higher education system or for optimally supporting the strengths of existing institutions this appears to be a promising feature. Agreements addressing the entire sector bear the risk of institutions all moving into the same direction. Moreover, as reported in some countries, when institutions have to strive for the same objectives they may not all start from the same position, implying that some institutions will be privileged over others. Tailor-made contracts, however, will have high transaction costs and require that the government has the capacity to oversee what the consequences of the different contracts are for the system as a whole.

From several countries the experience shows that it makes sense to take the differences between different types of institutions into account. Intentions, targets and measures that apply to the university sector often will not be applicable to the college sector. By the same token, different types of agreements to allow for the different characters of comprehensive and specialised institutions are worth considering.

Comprehensive or focused agreements

Another key design issue concerns the number of topics to be covered in the performance agreements. Obviously, transaction costs will increase as soon as the number of topics covered in the agreements increases. In terms of manageability, focused agreements are to be preferred. This implies that additional policies and instruments will be required to cover areas that are not covered by the agreements. Moreover, a system of comprehensive contracts may lose some of its appeal in creating a dialogue between government and institutions since the entire national agenda will have to be incorporated into the contract negotiation.

Countries that have a longer history with performance agreements (such as Finland and Denmark) tend to show a shift from comprehensive contracts to more narrow and focused agreements.

Attaching substantial or marginal budgets to performance agreements

A first question here is whether performance agreements can be effective without having funding attached to them. Opinions on this issue greatly differ. On the one hand, it has been argued that, if there is no money involved, institutions are hardly willing to adjust their behaviour towards the desired outcomes. This seems to be the view in the Netherlands, that has known a long history of 'dialogue-based' relationships between government and institutions. Once such a dialogue becomes institutionalised, 'something else' will be required in order to change institutional behaviour. The Danish higher education institutions, that are also very much experienced in communicative modes of steering, still prefer to have letters of intent, although it has been suggested that the current system of institutional development plans would be (even) more effective if it was (directly) coupled to funding. On the other hand, there is the view that, when (serious amounts of) funds are attached to the agreements, the game will change and institutions may be less willing to cooperate. Countries that have agreements in order to establish a strategic dialogue and that try to align national and institutional agendas are more reluctant to link funding to agreements.

The other issue of course is how much funding should be attached to performance agreements. Again, opinions differ widely. Even small amounts can have a serious impact on institutional behaviour, while big amounts may have destructive impacts (or even bring the risk of bankruptcy for an institution). However, if amounts are small in relation to the efforts to be made by the institution, and the institution has an opportunity to acquire funds elsewhere, the impact on institutional behaviour is likely to be limited.

There is, however, consensus on the fact that annual budgetary fluctuations for institutions should be kept within bounds. Several countries have in-built cushions to limit the effects of performance-based funding and to maintain financial stability for individual institutions.

Existing or additional budgets?

If performance agreements are directly linked to funding then an intriguing question is to what extent they should bring additional funding to the institutions or whether the funding attached should be top-sliced from the already existing core budget. Opinions on this issue clearly differ. On the one hand there is the view that attaching additional funding to performance agreements creates a meaningful incentive for institutions to accept the agreements, perform well and to make an extra effort. Without the risk of losing funding, a bonus in return for 'doing more' or 'doing better' is likely to be met with less resistance from the institutions (although arguably when such a bonus is awarded on the basis of a particular benchmark some institutions will still feel neglected). Particularly, when performance agreements are a new steering device (an 'experiment', which seems to be a rather common strategy) additional funding would seem to be more ideal. On the other hand, such an ideal is not always possible – public funds are scarce (e.g. because of the financial crisis or strong competition from other public domains). Making a proportion of existing funding conditional on goal achievement ('top slicing') is then a more realistic

option. A lesson from some U.S. states, however, is that performance budgets driven by additional funding may become 'easy targets' for politicians that are looking to make cut-backs (in some American states the performance budgets were the first to be scrapped during economic recessions). As a result of that, performance-based allocation failed in these circumstances; institutions became frustrated and conservative in agreeing or setting targets. Moreover, it is difficult to draw a clear line about what can reasonably be expected from institutions and paid for from existing budgets and what is an additional effort for which extra funds should be made available. Some argue for example that 'high-quality teaching and research' is what colleges and universities should be all about (and that is what they are publicly funded for).

Performance agreements: some food for thought in bullet points

- *The government needs to have a strategic agenda for the higher education system (vision)*
- *Institutions must be involved throughout the process and have to be committed (otherwise efforts must be made to increase commitment)*
- *Both government and institutions need technical and operational expertise as well as sufficient resources*
- *Contract partners must be trustworthy and reliable. Agreements can be changed during the process but not too often and only in mutual consent*
- *Not only focus on agreement of content but also on measurement and infrastructure (indicator validity, sophisticated data collection, avoiding misinterpretation)*
- *Carefully consider how performance agreements are embedded and related to other policy instruments*
- *Avoid strong annual fluctuations in institutional budgets*
- *Although views differ and depend on the aims one has in mind, many believe that performance agreements should be kept simple, robust and transparent*
- *Many believe that the introduction of performance agreements should be done in a gradual way. Learning by doing ('experimenting') seems to be the preferred strategy.*
- *When performance agreements are new, measures and indicators should not be too new (experience and expertise will improve acceptance and working)*
- *Performance agreements are dialogue-based. Well-organised patterns of communication are crucial. An independent agency can facilitate certain parts of the process*
- *Align performance agreements with other government steering tools*
- *Ideally, for the sake of stability and trustworthiness, performance agreements should be 'political proof' (limiting risks of a change in government)*

- *Use the outcomes of the performance agreements to inform society. Once performance agreements are in place and implemented, accountability is one of its virtues*
- *Important but unsolved issues, because they are dependent on aims and context, are:*
 - *The choice and balance between quantitative and qualitative measures*
 - *The impact of performance agreements without funding attached*
 - *The amount of funding attached for changing institutional behaviour*
 - *The use of existing or additional budgets (the latter seem preferable but not always realistic or without risk)*
 - *Comprehensive and uniform contracts, or specific and focused agreements (the latter seem preferable but may not fit every aim performance agreements can have)*

Appendix A: Short descriptions of performance agreements in selected countries

COUNTRY	PERFORMANCE AGREEMENTS
AUSTRALIA	3-year compacts to pursue institutional missions (system differentiation) and contribution to national goals. First time established in 2011. Quality and accountability based condition to receive public funding. Comprehensive document (university mission/government and university priorities/university strategies/government funding). Two components: facilitation funding (formula) and reward funding (focus on two areas: SES student and quality initiatives). Annual reporting requirement for HEIs on performance indicators; more comprehensively assessment after 3 years. Institutions must contribute to the annual Performance Portfolio Information Collection (IPPIC).
AUSTRIA	Basic budget is based on <i>Leistungsvereinbarung</i> – a 3-year PA. Started in 2007. Government develops guidelines and national plan. Next, institutions draft PAs. Based on dialogue and negotiations. Comprehensive PAs that address: strategic goals, teaching and research, drop out policies, improvement student-staff ratio, part-time studies, societal needs, international orientation, university cooperation, defining and measurement of indicators. Includes specified basic budget (obligation for government). Every six months government and institutions individually discuss progress. Universities must report on performance in the <i>Wissenbilanz</i> .
DENMARK	Dialogue-based development contracts, established since 2000, covering a 3-year period and not legally binding (letters of intent). No direct relationship between set targets and awarding grants. Last generation of development contracts (2012-2014) have a maximum of 10 goals per institution, 5 indicated by the government and 5 by the institution. Goals are supposed to be smart and aim at university's profile. Universities must report annually. Ministry sends outcomes to Parliament.
FINLAND	For universities: 4-year performance agreements, since 1994, covering 4 elements: national objectives, mission, profile & focus areas of the HEI, key development measures, and funding (core and project funding and monitoring and evaluation). See Finland country report for indicators used in PAs. Crafting PAs is interactive process. Initiated by the government (guidelines, national targets) HEIs respond and draft their targets based on internal discussion. Negotiations, based on web-based tool, follow. Not all performance indicators of the PAs are part of funding formula. PAs can be linked to the strategic funding component. Providing information for national database (KOTA) is mandatory. Government informs HEI every year on progress. Outcomes are made public. Additionally, there are site visits (particularly if HEI does not perform well (enough)). Different PAs for polytechnics (see country report Finland).
NORTH-RHINE WESTPHALIA	Since 2002, 2-year performance agreements (third agreement was for 4-years). The 40-page document (2012/14) contains general and concrete agreements. The topics covered are: institutional profile, public budget, teaching (number of student per discipline, the intake capacity of institutions for new entrants, <i>Hochschulpakt</i> ⁷ agreements, quality assurance, capacity teacher training, supply for 'non-traditional' students), research (such as collaboration, profiling, PhDs, third party research), valorisation (such as patenting, collaboration), gender issues, internationalisation (such as collaboration, mobility of students and staff), linkages with upper secondary education, infrastructure and delivery of information and data.
THURINGIA	Since 2003, there is a 4-year Framework Agreement as well as 4-year bilateral performance agreements. The Framework Agreement is signed by three ministers and the nine HE institutions. Aims to give financial stability and structural development of HE landscape. It lists the key objectives for the sector, in return for public funding. The Framework Agreement shall be discussed every year. Institutions and ministry establish 4-year bilateral contract based on the framework Agreement on the basis of negotiations. Targets basically overlap with the Framework goals. The 30-40 page bilateral contracts focus on: overview of qualitative and quantitative institutional goals, planned measures for

⁷ The number of (potential) enrolments has doubled for some years because of a structural change in the system of upper secondary education. To regulate this substantial but incidental increase the *Hochschulpakt* (I en II) has been established, by means of bilateral contracts that are part of the target and performance agreements.

	goal achievement, infrastructure investment, human resources, quality assurance, transparency and information measures.
HONG KONG	UGC, addressing student number targets and manpower requirements, invites institutions to draft 3-year Academic Development Proposals. UGC discusses ADP with institutions and internal work group. Evaluation criteria used are: strategy, teaching and learning, advanced scholarship and community. Next, HEIs calculate the costs, checked by the UGC who uses the recurrent grant funding formula to send funding recommendation to the government. The ADP-process is largely controlled and coordinated by the UGC. The UGC also evaluates whether or not ADPs have been realised. Consequences may be taken into account for the next 3-year cycle.
IRELAND	Minister for Education has developed a System Performance framework, stating national priorities and key objectives, including measurable high-level indicators. In consultation with the Higher Education Authority (HEA), institutions develop individual three-year institutional performance compacts that reflect the institution's contribution to the national agenda. The compacts are still in its initial stages and in the first (pilot) year mainly meant to strengthen the strategic dialogue between HEA and institutions. In the next stage, an institution's progress in meeting its compact objectives will in principle have an impact on its core funding (10% is at stake).
The Netherlands	In 2012, the Ministry started a system of performance agreements where each institution had to specify ambitions with respect to education-related goals and how it sought to differentiate itself from other institutions. A conditional budget (amounting to 5% of the institutions' allocation for education) is tied to ambitions relating to seven performance indicators, and a selective budget (2% of the education budget) is competitively awarded (ex ante) to institutions that in their performance plans particularly seek to achieve differentiation ambitions in line with the national and European agendas. An independent Review Committee evaluates and monitors the agreements. After the contract period it establishes whether the (7) indicator-related goals have been achieved, based on evidence submitted by the institutions.
SCOTLAND	Since 2012, there are 3-year outcome agreements, aimed to demonstrate universities' impact from public investment and intends to maintain the diversity of Scotland's HE system. The outcome agreement annually set targets about priority areas institutions will work on. In four broad areas (opportunity, innovation, graduates employability & enterprising, and sustainable institutions) more than 20 issues and indicators were listed.
LOUISIANA	Board of Regents enters 6-year agreement to develop long-term performance goals and progress measurement. The agreement has annual performance targets unique to each institution. Institutional participation is voluntary; agreements however are legally binding. Targets in the agreements were negotiated with several stakeholders (with board of regents and institutional leadership as the most important ones). The contracts have a general format, with attachments with the targets and indicators that differ from one institution to the other. In total, there are up to 90 targets, ranging from 10 to 70 per institution.
CROATIA*	A 3-year pilot project has built capacity in both HEIs and the ministry to prepare the introduction of full performance funding agreements. Pilot funding agreements with all public HEIs cover teaching activities and aim to: i) reduce time to graduation, ii) increase the share of participation of students from underrepresented groups in the total number of enrolled and graduated students, and iii) Increase the number of graduates in technical, biomedical, biotechnical and natural sciences, iv) facilitate access for mature students (+ 25 years), and v) ensure that funds allocated for purpose of performance agreement cover 10% of public financing of HEIs. The experience of the implementation was evaluated after one year: there is a need to develop at least one shared goal for all institutions and common indicators to ensure comparable data (instead of each HEI proposing their specific indicators for each goal).
ITALY*	All universities are asked to develop 3-year strategic plans in line with the Ministry's strategic framework which consists of 2 goals – quality and sustainability – with 6 actions and 25 indicators. Each university defines its priorities on the basis of this framework and proposes to the Ministry a set of goals and indicators for the evaluation of its performance. On the basis of the HEI's proposal, with particular attention to its coherence with the national strategy and to its feasibility, the Ministry allocates targeted resources to the institutions. The resources allocation is subject to the result of an ex post evaluation.
CZECH REPUBLIC*	Each HEI describes a set of targets in its annual "institutional plan" (plan of realization of institutional programmes). The projects have to be in line with strategic priorities of the Ministry (Strategic Plan 2011-2015 + annual updates) and the institution's own strategic plans. The institutional plan is subject of negotiation between the HEI and the Ministry. So far only limited amendments and/or budgetary

changes have been made to the agreements. Each HEI sets its own target indicators and evaluation criteria for the institutional plans. Funding cuts are possible in case of underperformance.

* These three examples have been copied from *Key Findings from the ET2020 country workshop in The Hague (25-26 September 2014) on "Performance agreements and their relationship to funding in higher education"*

Appendix B: Short descriptions of effects and experiences with performance agreements in selected countries

COUNTRY	EFFECTS AND EXPERIENCES PBF AND PAs
AUSTRALIA	First two rounds of Compacts suggest that they amount to a bureaucratic burden with little positive effects on institutional behaviour. Doubts about future use of Compacts in its current form.
AUSTRIA	<p>In the period 2007-2012 the funding model consisted of basic budget (linked to PAs) and formula-based budget (20%, competitively distributed). Formula-based budget was too complex and not transparent. Relationship between funding and performance was unclear. Criticism on selection of indicators that were both input and output based. The share of the competitive, formula-based funding (20%) was too small to affect institutional behaviour (although institutions improved on several performance areas). Steering effect of performance driven parts of the model seems low, although <i>Wissenschaftsrat</i> concluded that PAs have contributed to a more diversified Austrian HE landscape. Other critique: overlap between PAs and other instruments/plans, such as the development plans of universities, impact hard to measure, not a 'level playing field' because it is easier for specialised institutions to profile themselves than for comprehensive universities.</p> <p>Suggestions to introduce the study place funding model (with among other things stronger role for national development plan) and calculation of basic budget based on (a limited number of performance) indicators (see country report Austria).</p>
DENMARK	<p>Performance-based allocation for teaching (taximeter) runs for a long time, several adaptations (e.g. bonus system – effects yet unknown). While performance-based research funding seems <i>relatively</i> low (compared to the teaching component) it effects the institutions. Third party funding and publication outputs have increased but it is unclear if this is due to the performance-driven allocation of funds. Downsides of performance-driven allocation mentioned are: potentially narrowing university's purpose as it can marginalise 'non-performance-based' activities, prioritises output over impact (citations are not part of the funding formula), and empowering managers over academic professionals. Risks of homogeneity instead of diversity.</p> <p>The first generations of development contract were too detailed and process-oriented. Avoid that development contracts become straitjackets instead of catalyst for change. There has been a shift from development plans being 'comprehensive strategic plans' to 'selective mission-based contracts'. Reduction of the number of targets – avoiding contracts that are too lengthy. Contracts have become 'smarter'. Universities adapted behaviour in terms of acting more strategically.</p> <p>Overlap in steering should be avoided.</p>
FINLAND	Finnish aims of PBF and PAs are: boost productivity and impact, increasing performance (through more efficiency, internationalisation and quality), increase mutual understanding between government and HEIs, gain insights in performance of system and HEIs, and enhance accountability and transparency. Government reports progress and is positive over steering effectiveness: HEIs act more strategically (profiling), with positive impact within the institutions. Better cost and performance awareness. Improved dialogue. Potential disadvantages spotted: 4-year period is rather long and limits flexibility, performance-driven system breeds uniformity which is

	<p>uncomfortable for specialised institutions and may limit profiling, it leads to (unwelcome) competition, is vulnerable for manipulation, strong focus on national goals that may not be in line with local goals.</p> <p>Over 20 years there have been some changes: nowadays more dialogue-based (instead of imposed by the state), from 3 to 4-year contracts (political election cycle), implying reduction of bureaucratic burden, reduction of number of performance indicators in PAs (from 13 to 6), adjusting weights for some indicators. After 20 years, the system of PAs is in general well-accepted.</p> <p>Potential future changes (although dependent on outcome of political elections): more emphasis on student feedback survey, number of student earning over 55 credits, adapting assessment of scientific output.</p>
NORTH-RHINE WESTPHALIA	<p>Performance agreements aimed to foster dialogue between state and institutions in a structured and transparent way. Institutional profiling and national goals' achievement important.</p> <p>Research suggests that there is no (direct), or a low, impact of incentives on performances because volume of performance-based funding is limited. Transparency has increased because results are made public. Performance agreement also effected internal university decision-making in positive sense. Criticism: agreement are too general because government fixes framework conditions. Responding to the same goals leads to homogeneity instead of heterogeneity (institutional profiling does not lead to system differentiation). System creates 'winners and losers'. Because performance-based funding is capped performance improvement may not lead to more income (if others perform even better). Emphasis on quantities instead of qualities can have perverse effects.</p>
THURINGIA	---
HONG KONG	<p>The funding model with the different components, with elements of competition, are believed to have been effective in setting system direction. The RAE, part of the research funding, is believed to have led to improvements in research and has strengthened accountability. Despite improvements and, in general acceptance of the system, there are complaints about the 'publish or perish' culture and the administrative burden. The RAE productivity push also had effects on HR-policies – less tenure positions and punishing 'underperforming' staff by increasing their teaching loads.</p>
IRELAND	<p>While the experiences are still quite recent, the performance agreements seem to have led to a strengthening of the institutions' strategic orientation and their steering capacity and urged them to seek collaboration with regional partners (as requested by the government).</p>
SCOTLAND	<p>Outcome agreements seem to help to establish system-wide dialogue. Institutions respond to strategic priorities set by the government. Unclear to what extent ambitions / targets will be realised (too soon to tell). Concerns about the pace (annual targets and reporting) and level of bureaucracy. Idea is to relax the time frame to triennial reporting.</p>
The Netherlands	<p>In 2014 a Mid-Term review was carried out by the independent Review Committee overseeing the performance contracts. This was done to evaluate progress on performance agreements and withdraw funding in cases where there was evidence of a lack of progress. It was concluded that all institutions had made sufficient progress and that the agreements had led to a strengthening of the institutional profiling process and a renewed focus on education quality.</p>
TENNESSEE	<p>There has been no evaluation of the current PBF system, but graduate numbers have gone up (but could be due to economic recession) and institutional policies are changing because of PBF in combination with other initiatives. (Potential) side-effects mentioned: weakening of academic standards, increased compliance costs, reduction of inter-institutional collaboration due to competition, restrictions to admissions (for reputation or increase graduation rates).</p>
LOUISIANA	<p>The performance fund was meant as additional funding. Due to economic recession it however was taken from the core funding, implying that institutions has to perform better for the same</p>

level of funds, or maintain their performance for less funding. As the result of this (and institutions being knowledgeable about it) institutions were conservative in setting targets.

Nonetheless most institutions pass the Grad Act yearly (meet the negotiated targets) meaning they are performing better. Effects could have been better if the model had been implemented as intended.

SOUTH CAROLINA

The 1996-2002 performance-based funding model and its successor was abandoned in 2006. It was based on 9 success factors and 37 attached performance indicators. Reasons for the failure were a heavily divided sector, indicators did not adequately assess institutional quality, institutions in similar groups were treated equally although serious differences existed, less differentiation in institutional missions possible, potentially huge fluctuations in funding, drop in tax revenues and lack of proof that performance based funding raises performance.

Appendix C: Some web links to bilateral contracts between the government and the HE institutions

AUSTRALIA

Mission based compacts 2014-2016: <http://docs.education.gov.au/node/34873>

Mission-based compacts 2011-2013:

<http://www.industry.gov.au/research/MissionBasedCompacts/Pages/default.aspx>

Summary Report on Mission-based Compacts 2011-2013:

<http://www.industry.gov.au/research/MissionBasedCompacts/Documents/SummaryReportMissionBasedCompacts2011-13.pdf>

AUSTRIA

<http://wissenschaft.bmwf.gv.at/bmfw/studium/studieren-in-oesterreich/oesterr-hochschulwesen/das-oesterreichische-hochschulsystem/leistungsvereinbarungen-2013-2015/>

DENMARK

<http://www.au.dk/en/about/uni/policy/aarhus-universitys-development-contract-2012-2014/>

http://www.sdu.dk/en/Om_SDU/Organisationen/Udviklingskontrakt

FINLAND

Examples of performance agreements can be found here (in Finnish):

http://www.minedu.fi/export/sites/default/OPM/Koulutus/yliopistokoulutus/hallinto_ohjaus_ja_rahoitus/yliopistojen_tulosopimukset/Sopimukset_2013_-_2016/AYO_sopimus_2013-2016.pdf

http://www.minedu.fi/export/sites/default/OPM/Koulutus/ammattikorkeakoulutus/hallinto_ohjaus_ja_rahoitus/tavoitesopimukset/FUAS_2013_2016/Laurea_Sopimus_2013-2016.pdf

NORTH-RHINE WESTPHALIA

<http://www.wissenschaft.nrw.de/hochschule/hochschulen-in-nrw/ziel-und-leistungsvereinbarungen/>

The NETHERLANDS

<http://www.rcho.nl>

<http://www.vsnu.nl/general-agreement-en.html>

<http://www.verenighogescholen.nl/component/content/article/22/1063>

<http://www.oecd.org/sti/inno/Innovation-policy-Netherlands.pdf>

<http://www.oecd.org/sti/inno/netherlands-innovation-review-recommendations.pdf>

THURINGIA

http://www.thueringen.de/th2/tmbwk/wissenschaft/hochschule_und_studium/hochschulentwicklung/zlv/

IRELAND

<http://www.hea.ie/en/policy/national-strategy/higher-education-system-performance-2014-16>

SCOTLAND

<http://www.sfc.ac.uk/funding/OutcomeAgreements/OutcomeAgreementsOverview.aspx>

The Center for Higher Education Policy Studies (CHEPS) is a research institute (WHW, Article 9.20) located in the Faculty of Behavioural and Management Sciences within the University of Twente, a public university established by the Dutch government in 1961. CHEPS is a specialized higher education policy centre that combines basic and applied research with education, training and consultancy activities.

<http://www.utwente.nl/bms/cheps/>

