

Chapter 1

Unraveling the Legal Labyrinth: Regulatory Constraints and Survival Challenges of Private Higher Education in Portugal

Maria Elisabete Ferreira-Fernandes

 <https://orcid.org/0000-0002-0343-7924>

University of Vigo, Portugal

Eva Maria de la Torre García

 <https://orcid.org/0000-0002-8415-6568>

Autonomous University of Madrid, Spain

Maria de Lourdes Machado-Taylor

Lusofona University, Portugal

ABSTRACT

The survival of private higher education institutions (HEIs) in Portugal is closely linked to the country's regulatory framework, which affects their financial sustainability, operational autonomy and their capacity to compete with public HEIs. Although legislative reforms since 2006 have aimed to reduce disparities between public and private HEIs, significant regulatory constraints remain - particularly in relation to academic employment. This study provides a comprehensive review of the legal framework governing higher education (HE) in Portugal, focusing on legal decisions related to academic employment and its relation to the survival of public, private and hybrid HEIs. Our analysis shows that private HEIs are experiencing an increasing loss of autonomy, due to new accreditation standards on teaching staff employment contracts. This may constrain HEIs' strategic development and

DOI: 10.4018/979-8-3373-0407-6.ch001

long-term survival. Policy and managerial implications derived from these findings are discussed.

1. INTRODUCTION

Private higher education institutions (HEIs) play a crucial role in diversifying the educational offer and access to tertiary education globally (e.g. Wells et al. (2007); Levy (2011); Levy & Zumeta (2011); Teixeira et al. (2016)) and in Portugal this is no exception (e.g. Teixeira et al. (2013); P. Teixeira et al. (2017)). However, in Portugal the survival of HEIs is directly related to the current regulatory framework, which determines not only the operating rules but also the sector's funding models. Legislative changes, especially those that affect operational requirements, particularly regarding the number and qualifications of the academic staff - the main resource of HEIs - can have profound impacts on the financial sustainability and competitiveness of private HEIs (Amaral & Teixeira, 2002; Amaral, Karseth & Jones, 2013).

Currently, one of the main priorities in the development of the Portuguese higher education (HE) system is to guarantee the quality of education (e.g. Sin et al. (2017a); Cernostana (2018); Daraio et al. (2021)).

As highlighted in the Standards and Guidelines for Quality Assurance in the European Higher Education Area ESG (2015), institutions must ensure the availability of sufficient and relevant educational resources, with 'Academic Staff' being one of the pillars.

In fact, the "academic staff" - a terminology used in this chapter to broadly and undifferentiated describe the academic profession, including all those engaged in the core pillars of university activity: teaching and research – have been the subject of various studies for a long time, and there is unanimity in identifying its relevance and impact on their role in the HE system (e.g. Perkin (1969); Machado-Taylor et al. (2017)). Extant literature reveals that the development of HEIs and the academic profession have followed interconnected paths and shared themes emerge. Studies like The Changing Academic Profession Study (CAP Study – Shin et al., 2014); Galaz-Fontes et al., 2016; Machado-Taylor, Soares & Teichler, 2017; Teichler et al., 2017; and the Academic Profession in Europe; (EUROAC project – Drennan et al., 2013), reveal that academic careers are shaped by national frameworks yet increasingly subject to broader, supra-national influences. These studies highlight challenges such as funding pressures, and evolving academic roles, professional autonomy and career expectations. Traditionally focused on teaching and research, HEIs now face added responsibilities, such as knowledge transfer and social impact (e.g. De La Torre et al. (2017); Compagnucci & Spigarelli (2020)). Neoliberal policies

40 more pages are available in the full version of this document, which may be purchased using the "Add to Cart" button on the publisher's webpage: www.igi-global.com/chapter/unraveling-the-legal-labyrinth/386249

Related Content

The Relationship Between Commodity Prices and Selected Macroeconomic Variables in Turkey: Evidence From Fourier Cointegration Test

Mustafa Uysaland Zafer Adal (2020). *Handbook of Research on Decision-Making Techniques in Financial Marketing* (pp. 510-528).

www.irma-international.org/chapter/the-relationship-between-commodity-prices-and-selected-macroeconomic-variables-in-turkey/241716

A Study on Factors Influencing the Initial Public Offerings (IPO) in the Bombay Stock Exchange (BSE), India: During 2007-2013

Rajesh C. Jampala, P. Adi Lakshmiand Srinivasa Rao Dokku (2016). *International Journal of Corporate Finance and Accounting* (pp. 22-35).

www.irma-international.org/article/a-study-on-factors-influencing-the-initial-public-offerings-ipo-in-the-bombay-stock-exchange-bse-india/164985

Financial Literacy: Gaps Found Between Mexican Public and Private, Middle, and High-School Students

Adriana Berenice Valencia Álvarezand Jaime Ricardo Valenzuela González (2021). *Research Anthology on Personal Finance and Improving Financial Literacy* (pp. 518-543).

www.irma-international.org/chapter/financial-literacy/271988

The Existence of an Anomaly in the City Indices in Borsa Istanbul

Hakan Altin (2021). *International Journal of Corporate Finance and Accounting* (pp. 12-27).

www.irma-international.org/article/the-existence-of-an-anomaly-in-the-city-indices-in-borsa-istanbul/285969

Adjustment of Bank Capital Ratios: New Evidence From Commercial Banks

Faisal Abbas (2023). *International Journal of Corporate Finance and Accounting* (pp. 1-15).

www.irma-international.org/article/adjustment-of-bank-capital-ratios/322552