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How academic freedom is monitored

Overview of methods and procedures

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How academic freedom is monitored

Overview of methods and procedures

In recent years, there has been renewed interest in the true degree of academic freedom around the world, despite international declarations, and constitutional and legal protections.

This EPRS study seeks to support the European Parliament's STOA Panel in developing a procedure to monitor changes in academic freedom in the EU Member States. It offers an overview of academic freedom as defined in different international declarations, and makes a critical assessment of existing evaluation and monitoring methods and procedures.

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Executive summary

1. Higher education serves societies in many ways. It prepares students for life and for their role as active citizens in a democratic society, and lays the foundations for their future careers. It enables students' personal development and stimulates research and innovation. Higher education, therefore, is vital for well-being in society, for sustaining continuous development, and for achieving the United Nations Sustainable Development Goals and addressing the challenges facing humanity. To achieve these goals, academics need a high degree of freedom and must use it responsibly. Academic freedom is recognised as a fundamental European value by Article 13 of the EU Charter of Fundamental Rights, as well as in several policy initiatives such as the Bologna Process, the European Universities initiative and ERASMUS+.

2. The last decade has shown however that the European Union is not fully capable of protecting academic freedom, and concerns have been raised in many Member States about its current state. The difficulties of protecting academic freedom at EU level became evident in the high-profile case against Hungary, brought by the European Commission to the European Court of Justice (ECJ). Although the Court decision, which ruled against Hungary, was heralded as a victory for academic freedom, in reality the case depended heavily on arguments relating to unlawfully restricting World Trade Organisation (WTO) rules on trade in services, whereas the violation of academic freedom, as mentioned in the Charter of Fundamental Rights of the European Union, was given less emphasis. It is, however, a positive development that the ECJ, despite the relatively weak legal framework (i.e. the lack of a binding and detailed definition of academic freedom), considered it important to include academic freedom in its ruling.

3. Academic freedom is recognised in the EU Charter of Fundamental Rights, which states that '[t]he arts and scientific research shall be free of constraint. Academic freedom shall be respected'. However, academic freedom rarely appears in other legally binding international conventions. The level of detail in the definition of academic freedom also varies widely between national regulations. The definition and content of academic freedom both need to be clarified to reach a shared understanding and more precise legislation.

4. To identify common elements of academic freedom, we used several policy documents with broader authority accepted by wider political communities. These include:

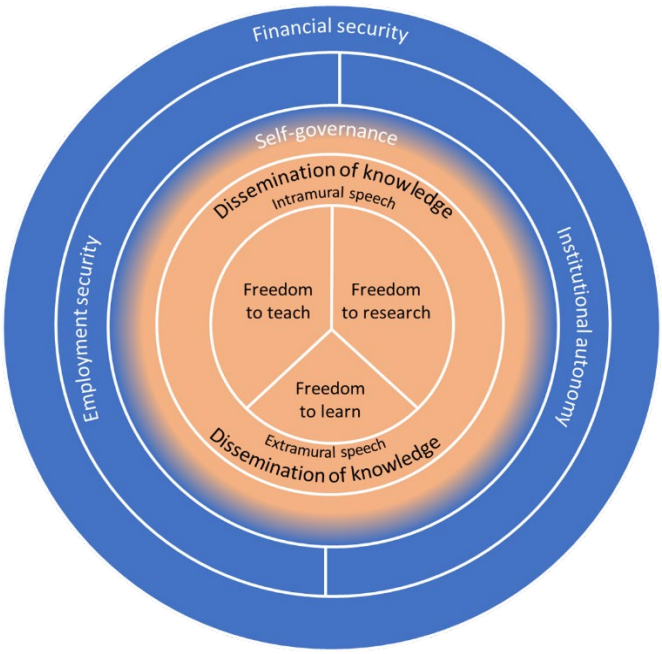
a. the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997),
b. the Rome Ministerial Communique of the European Higher Education Area and its annexe about academic freedom (2020),
c. the report 'Threats to academic freedom and autonomy of higher education institutions in Europe', adopted by the Council of Europe (2020),
d. the Bonn Declaration on Freedom of Scientific Research (2020) and
e. the UNESCO Recommendation on Science and Scientific Researchers (2017).

We have also included in our analysis reviews and policy recommendations developed by relevant professional communities. These include:

f. the advice paper 'Academic freedom as a fundamental right' adopted by the League of European Research Universities (2010) and
g. 'The Statement of Principles on Academic Freedom and Tenure' by the American Association of University Professors (2015), which serves as an important reference in the academic literature.

5. Academic freedom is a set of rights and obligations for members of the academic profession. However, who is considered a member of the profession is a matter of debate. In a narrow sense, only qualified academics are entitled to academic freedom, but in a broader sense, students, support staff and even lay researchers can be warranted academic freedom.

6. Academic freedom consists of several elements summarised in the 'onion' model. The model distinguishes between essential elements (orange) and supporting elements (safeguards, blue).



The essential elements form the core of academic freedom. A violation of these elements leads to a direct violation of academic freedom. The essential elements include freedom of teaching and freedom of research, and, in the broad sense, freedom of learning. The freedom of dissemination is often regarded as part of the freedom of teaching and research, but is treated as a separate essential element. Many believe that these freedoms can only be exercised if members of the academic community have a meaningful say in decisions affecting the conditions of teaching and research. Therefore the right of self-governance (which is not the same as institutional autonomy) is often also seen as an essential element.

7. The freedom of teaching includes freedom of choice of content and teaching method and, within certain limits (and responsibility), the freedom of choice of students. Teachers should teach without any interference, discrimination of any kind or fear of repression.

8. Freedom of research includes the right, consistent with professional standards of the respective discipline, to determine what shall (or shall not) be researched; how it shall be researched; who shall research, with whom, and for what purpose research shall be pursued; the methods by which, and channels through which, research findings shall be disseminated.

9. Freedom of dissemination is the free and unrestricted sharing of knowledge and research results. Academics are free to choose the place and form of dissemination (publication) within the academic context (intramural) and communication with the lay public (extramural).

10. Freedom of learning has two main elements: the right to education and the right to freely form (and change) one's own opinion.

11. Academic freedom brings benefits but also implies responsibilities. Means to strengthen responsibility are therefore important. Poor academic integrity, corruption or cronyism within

academic institutions (especially in the selection of academic and administrative staff) can undermine academic freedom and weaken the academic profession in general.

12. Supporting elements of academic freedom are those elements that protect essential elements. Their absence does not necessarily imply a violation of academic freedom, but infringements are more difficult to prevent without such safeguards. These elements include **employment security** (tenure or similar long-term employment frameworks) and **institutional autonomy**.

13. An important element of institutional autonomy is the extent to which institutions have decision-making power over the essential elements of academic freedom and the organisational conditions that influence them. Universities and research institutes should have sufficient power to ensure academic freedom. Policymakers and the wider society are responsible for providing the conditions necessary for the healthy functioning of the academic community (e.g. a high degree of institutional autonomy and decision-making power and a stable and predictable legal framework for employment and funding).

14. Another component of institutional autonomy is the internal governance of institutions. It is the academic community (and not, for example, the management) that should make decisions on academic standards of teaching and research, or on hiring and promoting academics, because the academic community has the expertise to make them (self-governance). Decisions affecting the functioning and future of the institution and the conditions for teaching, research and learning should be taken jointly with management and other (internal) stakeholders (shared governance) to ensure accountability. In these matters, therefore, the academic community does not necessarily decide autonomously but should have a meaningful say to be able to promote academic freedom.

15. Civil service, tenure or similar secure employment frameworks are widely considered a supportive element of academic freedom because they can promote academic freedom. A secure employment framework contains two important elements. First, academics cannot be dismissed from the institution because of their professional views. Academics who feel threatened cannot articulate their opinion freely or do their job properly. Second, permanent or open-ended employment means demonstrating a high level of professional competence that peers must judge.

16. A large number of organisations is involved in the promotion and monitoring of academic freedom. Although several measurement and evaluation procedures exist, different procedures use different methods and focus on different elements of academic freedom or examine academic freedom as a part of a broader issue (usually human rights). There is currently no assessment method or procedure to examine systematically and specifically the situation of academic freedom in the EU Member States in greater depth. Both the European Higher Education Area (EHEA) and the European Commission have plans to strengthen and monitor academic freedom in the future.

17. We have reviewed existing evaluation methods and procedures of academic freedom. We established that assessing the status of academic freedom is a difficult task because 1) academic freedom is a complex concept, 2) there may be a difference between the de jure status as defined by law and the de facto status that exists in reality, 3) there may be differences within each country, for example between sectors or institutions, 4) academic freedom is subject to influence and violation by many different actors (state, companies, public, academia itself) and 5) in addition to overt and direct forms of violation of academic freedom, there are also more covert and subtle elements that are more difficult to detect (e.g. self-censorship, corruption).

18. Ten evaluation methods and procedures that focus partly or entirely on academic freedom were assessed on the following criteria: the type of assessment, the concept of academic freedom used in the assessment, the level of analysis, de facto/de jure approach to academic freedom, the validity and reliability of assessment, the integrity of data collection and assessment, the resource requirements of the procedure, and the comparability and periodicity of results.

19. The following 10 methods and procedures were analysed: the comparative analysis of the regulatory environment, the Academic Freedom Index (AFI), the European University Association's University Autonomy Scorecard, the Academic Freedom Monitoring Project by Scholars at Risk, Freedom House's Freedom in the World (FIW) report, surveys among academics, expert case studies on countries, the United Nations Universal Periodic Review (UPR) of Human Rights, the Joint International Labour Organization–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) and institutional investigations by the Academic Freedom Committee of the American Association of University Professors.

20. Based on the review, we can conclude that some existing methods are not systematic and are published only occasionally or irregularly (e.g. most evaluations carried out by academics, Human Rights Watch reports). Other methods examine academic freedom only tangentially, often in conjunction with other human rights (Freedom House Reports, UPR). These methods may not be sufficiently in-depth or necessarily oversimplify the situation by highlighting only highly visible events or legislation. Some methods focus only on specific elements or infringements of academic freedom to compare countries with each other (e.g. AFI). They compress information to such an extent that the context behind the numbers is not visible anymore. Finally, some methods focus on only certain aspects of academic freedom (e.g. de jure analysis, violent infringements). These methods highlight important elements but cannot give the full and true picture of academic freedom in a particular country.

21. We believe there is both the room and an opportunity to develop a new academic freedom monitoring tool focusing on EU Member States. This new instrument should be:

a. **comprehensive**, that is, it should include both the essential and supporting elements, and should address the regulatory environment as well as de facto reality;
b. **systematic**, that is published regularly;
c. able **to integrate** the results of existing assessment methods and flexible enough to incorporate the results of methods developed in the future;
d. able **to contextualise** the results of existing assessment methods making developments and worrying trends (such as the erosion of supportive elements) visible at an early stage;
e. produced according to a broadly consistent methodology and criteria for some comparability;
f. **independent** in the sense that results should be resilient to influence or manipulation by parties interested in the systematic weakening of academic freedom;
g. **formative** so that it can serve as the basis for development projects.

22. We have outlined the following policy options for the EP STOA Panel for further consideration:

- Strengthening the **binding legal definition** of academic freedom
- **Increasing synergies** between the European higher education area (EHEA), European education area (EEA) and the European research area (ERA) by joining/promoting existing monitoring methods or developing an independent monitoring mechanism.
- Developing an **independent academic freedom monitoring procedure** for which we outlined the following possibilities:
    - Meta-evaluation by experts
    - Self-assessment procedure similar to the United Nations Universal Periodic Review approach
    - Self-assessment report followed by a visiting committee similar to a quality accreditation process
    - Self-evaluation by an academic representative stakeholder organisation similar to the Autonomy Scorecard report by the European University Association

  - A complex (combined) approach involving surveys, self-evaluation reports with visiting committees, and complaint procedures
  - Institutional-level assessment of academic freedom
- **Increased stakeholder involvement** in developing the specific monitoring procedure
- **Developing and disseminating** procedures and methods to strengthen academic integrity.

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1. Introduction

1.1. The importance of academic freedom

Higher education and science serve society in many ways. The London communique of the ministerial conference of the European Higher Education Area declared in 2007, that the purposes of higher education include 'preparing students for life as active citizens in a democratic society; preparing students for their future careers and enabling their personal development; creating and maintaining a broad, advanced knowledge base; and stimulating research and innovation'.[1] All objectives are deeply rooted in the traditions of European higher education and research systems, and their achievement requires academic freedom.

Understanding the world around us and the freedom to explore its phenomena and interconnections are requisites to perform stimulating research and innovation. Science directly or indirectly serves humanity by developing and disseminating new knowledge and promoting progress. Science and scientists can only fulfil this role if they have the opportunity to question taken-for-granted truths and previous claims. Science is, by its very nature, critical. Its object of critique is not confined to previous scientific results but extends to the functioning and operation of society, often politics, government, and the state. Academic freedom guarantees that scientists can question the state of affairs in any field.

The knowledge society increasingly demands creative, communicative and collaborative workers who are critical thinkers, reflective and proactive. These skills can be acquired in a free, flexible learning environment with room for experimentation and error. Teachers can judge the most suitable methods for their students, provided they have the necessary freedom in teaching.

Becoming an active citizen is crucial for democratic societies. The European strategy for universities published by the European Commission in 2022[2] acknowledges that '[u]niversities are key to promote active citizenship, tolerance, equality and diversity, openness and critical thinking for more social cohesion and social trust, and thus protect European democracies. Universities have an active role in preparing graduates to be well-informed European citizens. By teaching and awareness raising actions, they support anchoring European values in society, and by upholding scientific rigour, they help to strengthen trust in science' (p. 10). Academic freedom contributes to the democratic development of societies by promoting critical thinking and encouraging students to question accepted claims and debate them. Students can apply these skills as citizens in public discourses. The ability to question claims can also strengthen resistance against fake news and gives students the desire to get involved in society.

Empirical evidence also suggests that democracy and academic freedom are interrelated, and their status could indicate each other's quality.[3] It is reasonable to assume that where democracy, the rule

[1] See EHEA (2007): London Communiqué http://www.ehea.info/Upload/document/ministerial_declarations/2007_London_Communique_English_588697.pdf

[2] European Commission (2022): European strategy for universities. COM/2022/16 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2022:16:FIN

[3] Using the data from the V-Dem and Academic Freedom Index from 1960-2017, Berggren and Bjornskov (2022) examined the relationship between political institutions and academic freedom in 64 states. They found that 'academic freedom benefits from (1) democratization (...) indicating (...) the importance of elections for academic freedom; (2) legislatures that are bicameral (in the long run) and that become more heterogeneous and more right-wing; (3) a proportional electoral system; (4) stronger judicial accountability; and (5) higher GDP per capita. It is, on the other hand, reduced strongly, both in the short and in the long term, by communism'. See Berggren, Niclas - Bjørnskov, Christian (2022): Political institutions

of law and checks-and-balances are challenged, the extent and level of academic freedom are also weaker.

1.2. Concerns about academic freedom in the EU

Recognising the essential role of academic freedom, the EU Charter of Fundamental Rights declares it as a fundamental right when it states that '[t]he arts and scientific research shall be free of constraint. Academic freedom shall be respected' (Article 13)[4]. It is a value Europe should protect and nurture with all the power at its disposal. However, the report about the state of play of academic freedom in European countries (written by Peter Maasen and his colleagues) shows that academic freedom and its safeguards are under constant pressure in many countries, while in other countries, there are attacks from time to time. The last decade has also shown that Europe is not fully capable of protecting academic freedom, and concerns have been raised in many Member States about its current state.

The difficulties in protecting academic freedom at the EU level became evident in the high-profile case against Hungary, which the European Commission brought to the European Court of Justice (ECJ). The Hungarian government introduced higher education legislation in 2017 that forced the Central European University to move most of its operations to Vienna. Although the court decision, which ruled against Hungary[5], was heralded as a victory for academic freedom, the case depended in reality heavily on arguments related to unlawfully restricting World Trade Organisation (WTO) rules on trade in services, whilst the violation of academic freedom, as mentioned in the Charter of Fundamental Rights of the European Union was given lesser emphasis. It is, however, a positive development that the ECJ, despite the relatively weak legal framework (i.e., the lack of a binding definition of academic freedom), considered it important to include it in the ruling. The ECJ ruling has undoubtedly raised awareness of the importance of protecting academic freedom and the need to establish a commonly-agreed concept and definition.

Academic freedom is a fundamental right in the EU, nevertheless little information regarding academic freedom is available. For example, the role of the European Union Agency for Fundamental Rights (FRA) is to investigate the realisation of the EU Charter of Fundamental Rights. However, its annual reports or country recommendations do not contain information on the quality of academic freedom at the EU level nor the most problematic cases in individual Member States.[6]

The discreet but central role of academic freedom in European democracies, the lack of information on its quality and the difficulties in defending it have made academic freedom an issue on the European policy agenda for education and science. In general, the European Commission's 2020 Strategy to strengthen the application of the Charter of Fundamental Rights in the EU[7] aims to develop democracy and enforce protection against ongoing threatening challenges. According to

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and academic freedom: evidence from across the world. *Public Choice* 190:205–228. https://doi.org/10.1007/s11127-021-00931-9

[4] European Commission (2020): Strategy to strengthen the application of the Charter of Fundamental Rights in the EU. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0711&from=EN

[5] Case C 66/18: European Commission v Hungary, https://curia.europa.eu/juris/liste.jsf?num=C-66/18

[6] See, for example, the Fundamental Rights Report 2022. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-fundamental-rights-report-2022_en.pdf Between 2020-2022 none of the country reports used the term 'academic freedom', not even the country report for Hungary. See, for example, the 2022 reports here: https://commission.europa.eu/publications/2022-rule-law-report-communication-and-country-chapters_en

[7] European Commission (2020): Strategy to strengthen the application of the Charter of Fundamental Rights in the EU. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0711&from=EN

the EU Democracy Action Plan (EUDAP)[8], one of the prerequisites for democracy is freedom of information and expression, of which academia is a necessary component. Therefore, EUDAP emphasised that 'ensuring academic freedom in higher education institutions is also at the core of all higher education policies developed at EU-level.'[9] Other current strategies and priorities also started to focus on strengthening academic freedom.[10]

1.3. The goal and structure of the study

To facilitate a robust policy debate, the European Parliament's STOA Panel has decided to establish an authoritative platform to monitor the state of academic freedom in the EU in order to provide enforceable protection at the EU level. With the close involvement of academic stakeholders, the *EP Forum for Academic Freedom* intends to develop the Academic Freedom Monitor, an independent status review published annually with fresh data.

To support this endeavour, this study aims to summarise and critically assess existing methods and procedures to monitor academic freedom. Based on the assessment, we outline policy options for the STOA regarding developing a comprehensive academic freedom monitor. The study does not aim to describe the situation of academic freedom in European Union Member States.

The structure of the study is as follows.

In Chapter 2, we present the methodology used for the study, which is essentially based on desk research. In Chapter 3, we review the concept of academic freedom because there are narrower and broader approaches to what this freedom covers, who is entitled to it and how it relates to other rights. We also discuss some conditions (institutional autonomy and employment security) necessary for academic freedom to flourish. In Chapter 4, organisations are presented that are particularly concerned with academic freedom. Chapter 5 summarises the initiatives taken at the European level for academic freedom. Here, the initiatives of the European Commission and the European Higher Education Area deserve attention.

Chapter 6 reviews the assessment methods and procedures for monitoring academic freedom. A set of assessment criteria was developed based on our understanding of academic freedom complemented with other relevant aspects that were identified in the literature. In total, seven methods and three procedures are reviewed. Finally, in Chapter 7, we summarise the main lessons learned, while Chapter 8 formulates policy options for STOA.

[8] European Commission (2020): On the European democracy action plan. https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0790&from=EN

[9] EC (2020): On the European democracy action plan. COM/2020/790 final. chapter 4.3., 2nd paragraph https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0790

[10] See Chapter 5 for a detailed overview.

2. Methodology of the study

The study was based on desk research. We primarily reviewed the literature on the definition, operationalisation, measurement and evaluation of academic freedom, including the operationalisation of institutional autonomy. We examined relevant international legislation, policy documents, European Court of Justice (ECJ) judgments, methodological descriptions, and related academic literature. We also screened several large-scale overviews and scanning projects to gain a deeper understanding of the aims and approaches to assess and measure academic freedom. In total, we reviewed 35 policy documents, 70 academic papers and books, and six court rulings.

Based on the literature, we have developed a conceptual framework of academic freedom, which structures the aspects, dilemmas and questions along which the interpretation of academic freedom is differentiated. We have constructed a working definition of academic freedom by identifying the defining components that are present in a significant part of the policy documents analysed. In defining the components, we have not been guided by the terms and wording of the authors or documents but by the content they describe.

We identified those organisations that promote and monitor academic freedom directly or in conjunction with other (fundamental) rights. We also summarised current European initiatives to assess and strengthen academic freedom.

The aim of the review of literature, organisations and initiatives was to identify the procedures currently used to examine the realities of academic freedom. We identified challenges that hamper the development of an academic freedom monitoring process. Based on the definition of academic freedom and these challenges, we defined the evaluation criteria against which we assessed existing academic freedom monitoring approaches. These criteria include the academic freedom concept used in the assessment, the level of analysis, the de facto/de jure approach to academic freedom, the validity of de facto academic freedom, the sensitivity to more subtle restrictions on academic freedom, the type of assessment, the reliability of assessment, the manipulability of data collection/assessment, the resource requirements of the procedure and the comparability of results.

The second half of the report presents several academic freedom assessment methods and procedures. Most procedures are described by their methodological guidelines, supplemented by critical findings from the academic literature. Among these, we must mention the excellent methodological review by Janika Spannagel[11], on which we have heavily drawn in writing this report.

Where possible, have we illustrated the assessment methods with results for EU Member States. Since many assessments were produced before Brexit, for consistency, we have included the UK in all illustrations where data were available.

When we had the possibility, we approached project leaders and/or experts in the field to help clarify methodological issues or provide information on the status of ongoing projects. We thank Katrin Kienzelbach, Lars Pelke, Thomas Esterman, Cezar Haj, Milica Popovic and Daniela Craciun for their helpful comments and feedback.

[11] Spannagel, Janika (2020): The Perks and Hazards of Data Sources on Academic Freedom: An Inventory. In: Katrin Kinzelbach (ed): Researching Academic Freedom. Guidelines and Sample Case Studies. FAU Studien zu Menschenrechten 5. FAU University Press. https://www.gppi.net/media/Kinzelbach_2020_Researching_Academic_Freedom-Book.pdf

3. Approaches to academic freedom

To strengthen academic freedom at the European level, we have to have a common understanding of what it means and does not mean. Developing a comprehensive monitoring methodology also requires operationalising the concept for which a well-structured definition is needed.

While academic freedom is widely accepted as a value, its exact content and meaning are less clear. A major reason for this is found in the different administrative traditions[12] with their distinct roles of legal regulation and ways of policy is decided, which directly affect the existence and extent of the legal definition of academic freedom.[13] Where, for example, academic freedom is not constitutionally protected (because, for example, there is no constitution, as in the UK), academic freedom is not a fundamental right, and its protection is derived from freedom of expression. In other countries, however, academic freedom is a right in itself, so the discourse on its nature is different.

Another reason stems from the growing complexity of higher education and research, driven by its expansion and growing heterogeneity. As the university's monopoly on knowledge production was challenged (for example, by company research units), the boundaries of the academic sector became more blurred.[14] Societal expectations have also become more diverse, which has further sharpened contradictions in the expectations posed to the academic field. For example, the university must serve the existing socio-economic-political order (instrumental role) but also challenge it (critical role). In research, the role of client-driven research and strategic funding has increased, as opposed to discipline-driven (basic) research. The role that the academic field can play depends strongly on the state's perception of its own role and the resulting institutional autonomy.[15]

The increase in the complexity and heterogeneity of the academic field has also made the role of academics more diverse. Today an academic can be a teacher, a facilitator, a researcher, an innovator, a communicator, an expert, a consultant, an activist and a public intellectual - and academic freedom must be able to reflect this variety.

In this chapter, we would like to explore the dilemmas and discourses surrounding the concept of academic freedom.

3.1. Academic freedom in national and international legal regulations

The level of detail in the legislation concerning academic freedom of different countries varies greatly. In a study published in 2017, Terence Karran and his colleagues examined the extent to which EU countries' higher education laws detail and protect academic freedom.[16] They found significant differences. In some countries (e.g. Austria, France, Lithuania, Slovakia, Croatia and Latvia), academic freedom is not only constitutionally protected, but its meaning is defined in detail in

[12] Painter, Martin – Peters, B. Guy (2010): The Analysis of Administrative Traditions. In: Painter, Martin – Peters, B. Guy (eds): Tradition and Public Administration. Palgrave MacMillan

[13] Bleiklie, I. – Michelsen, S. (2013). Comparing HE policies in Europe: Structures and reform outputs in eight countries. Higher Education, 65(1):113–133. https://doi.org/10.1007/s1073 4-012-9584-6

[14] Gibbons, Michael – Limoges, Camille – Nowotny, Helga – Schwartzman, Simon – Scott, Peter – Trow, Martin (1994). The New Production of Knowledge. The Dynamics of Science and Research in Contemporary Societies. Sage Publication.

[15] Peter Maassen (2020): Perspectives on institutional autonomy in a European higher education context. In: Sjur Bergan, Tony Gallagher and Ira Harkavy (eds): Academic Freedom, Institutional Autonomy and the Future of Democracy. Higher Education Series No. 24. Council of Europe, p. 85-101. https://rm.coe.int/prems-025620-eng-2508-higher-education-series-no-24/1680a19fdf

[16] Karran, Terence – Beiter, Klaus D. – Appiagyei-Atua, Kwadwo (2017). Measuring academic freedom in Europe: a criterion referenced approach, Policy Reviews in Higher Education, 1(2):209-239, DOI: 10.1080/23322969.2017.1307093.

higher education legislation. In other countries both constitutional and legislative protection is non-existent (e.g. in Estonia or Malta) or severely lacking (e.g. in Denmark, Sweden, the UK, Hungary, Slovenia and Greece). (See chapter 6.2.1. for more details) This does not mean that there is no academic freedom in the latter countries but that there is no strong legal framework to protect it. It is apparent that the legal regulation of academic freedom widely varies across national regulations.

A mixed picture also exists in the international treaties and conventions that are ratified by governments or affect national legislation. The term 'academic freedom' rarely appears in international law, and none offers a detailed definition. Only elements of academic freedom or similar concepts can be found. For example:

h. Article 15.3 of the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR)[17] sets out the obligation of States Parties to respect the freedom of scientific research and creative activity. It also stipulates the universal right to education (article 13).
i. The European Convention on Human Rights[18] addresses freedom of education but does not speak about the freedom of research (article 2).
j. One exception is the EU Charter of Fundamental Rights[19] which explicitly declares academic freedom when it stipulates that '[t]he arts and scientific research shall be free of constraint. Academic freedom shall be respected'. It also declares the 'right to education' (article 13). But the charter only applies to the EU Member States and does not specify the content of academic freedom.

To sum up, the notion of academic freedom appears only in some documents, and where it does, its content is not elaborated in detail. Some elements of academic freedom (such as the freedom of research or the freedom of teaching) are present, but their content is not fully defined. Other elements are completely absent. Thus, while there are elements of the concept of academic freedom on which almost everyone agrees (for example, freedom of teaching and research), there is less consensus on other elements or the exact content and meaning of each element. For example, what is meant exactly by freedom of research, or whether self-government of academic communities is included in the concept of academic freedom. These uncertainties stemming from the lack of agreed definitions in binding documents lead to misunderstandings, different national interpretations and, in some cases, misleading translations.[20]

It is also clear that there is no consensus at the global level on whether academic freedom is a fundamental right. For example, Article 19 of the UN Universal Declaration of Human Rights[21] states only, among other things, that everyone has the right to freedom of opinion and expression, which includes the right not to be harassed for expressing their views and to seek and impart news and ideas through any media and regardless of frontiers. But it does not explicitly mention academic freedom. Only the EU Charter for Fundamental rights – a legally binding document only for EU Member States – considers academic freedom as a fundamental right.

A consensus on whether academic freedom can be considered a fundamental right would help to promote a more uniform interpretation and national legislation. Fundamental rights are rights endowed with a high degree of protection from encroachment. These rights are usually declared in a constitution, and therefore they are developed at the national level, but they could be

[17] https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

[18] https://www.echr.coe.int/documents/convention_eng.pdf

[19] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT

[20] For example, where the EU Charter declares, 'Academic freedom shall be respected', the Hungarian translation literally reads, 'Scientific freedom shall be respected' ('A tudományos élet szabadságát tiszteletben kell tartani.'), which calls into question how much teaching freedom is part of the right to be respected.

[21] https://www.un.org/en/about-us/universal-declaration-of-human-rights

strengthened when explicitly declared in international law. Fundamental rights are important not only because they are better protected in general but also because they are better protected against each other: fundamental rights can only be limited in relation to another fundamental right, to the extent strictly necessary for their exercising, and only proportionally (except for the right to life and dignity, which is an absolute fundamental right). In other words, if we accept that academic freedom is a fundamental right, it will be more difficult to restrict it. (The relationship between academic freedom and freedom of expression will be discussed later.)

Although the term 'academic freedom' is not enshrined in international treaties or every national legislation, it is argued that academic freedom is a fundamental right that can be partially or indirectly derived from the various international conventions.[22] Some of the elements of academic freedom are directly manifest as fundamental rights, while other elements can be shown to be fundamental rights indirectly by deduction. Nevertheless, the interpretation of academic freedom as a fundamental right on its own accord is in first instance the result of (legal) scholarship rather than a direct requirement of international conventions. However, the fact that the fundamental nature of academic freedom is debatable gives rise to discussions on limitations. Therefore, the EU Charter should protect academic freedom because it at least dispels the doubts within the EU. It is another matter that the lack of detail on the content of the concept is still generating controversy[23].

The case-law of the European Court of Justice (ECJ) is also relevant to the interpretation of academic freedom. Searching for the term 'academic freedom' in the database of ECJ judgments, a total of six cases can be found. These are related to equality, settlement, employment or infringement of the freedom to provide services, i.e., these judgments are mostly not relevant for the interpretation of the concept of academic freedom. In only one case[24] does the Court refer to Article 13 of the EU Charter of Fundamental Rights, i.e., the obligation to respect academic freedom. The judgment points out that the academic freedom referred to in the Charter is to be derived from the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms concerning freedom of expression.[25] (The Convention does not refer to academic freedom, only to freedom of expression.) The ECJ judgment also refers to the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) and the Recommendation of the Council of Europe entitled 'Academic freedom and university autonomy'. Overall, however, the ECJ does not provide a clear and unambiguous interpretation of the concept of academic freedom but concludes the need for its protection by linking it to the principles of institutional autonomy and freedom of expression.

To develop in instrument for monitoring academic freedom at the EU level, it is necessary to operationalise the agreed content of academic freedom, to be able to define what is worth tracking in the monitoring process.

Since there is no universal, legally binding text that provides an operationalizable definition of academic freedom for a wide range of states and stakeholders, there have been many efforts in recent times to define academic freedom or its components. In the following, we review texts, with broader authority and accepted by a wider political and/or professional community, which discuss

[22] see CoE Report 2020; Vrielink et al 2010

[23] see CoE Report 2020

[24] Case C 66/18: European Commission v Hungary, https://curia.europa.eu/juris/document/document.jsf?text=%2522academic%2Bfreedom%2522&docid=232082&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=1324197#ctx1

[25] The reason for this reference might be the accession of the European Union to the Convention in 2009, which makes the Convention a legal obligation for the EU under the Treaty of Lisbon. See: https://www.echr.coe.int/Pages/home.aspx?p=basictexts/accessionEU&c

and define academic freedom in detail. In this overview, the following texts are examined in more detail:

a. The UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (UNESCO 1997)[26]
b. Rome Ministerial Communique of the European Higher Education Area[27] and its annex about academic freedom (EHEA 2020)[28]
c. The report 'Threats to academic freedom and autonomy of higher education institutions in Europe' by the Council of Europe (CoE 2020)[29]
d. The Bonn Declaration on Freedom of Scientific Research adopted by the Ministerial Conference on the European Research Area (ERA 2020)[30] and
e. The UNESCO Recommendation on Science and Scientific Researchers (UNESCO 2017)[31].

The last two documents address the freedom of scientific research, an element of academic freedom. In some cases, we found it useful to refer to these two documents to better understand certain aspects of academic freedom. In our analysis we have also included reviews and policy recommendations developed by relevant professional communities because we believe that their comments contribute to a better understanding and operationalisation of the concept of academic freedom. These include:

f. The Advice Paper of 'Academic freedom as a fundamental right' adopted by the League of European Research Universities (LERU Advice Paper 2010)[32]
g. The Statement of Principles on Academic Freedom and Tenure by the American Association of University Professors (AAUP 2015)[33]

Annex 1 provides a summary and brief analysis of each text. Table 1 provides a concise overview of the documents focusing on academic freedom considering the following aspects: who is entitled to academic freedom (scope), what academic freedom entails (dimensions), whether it is considered an individual or a community right, and what additional conditions are required for academic freedom. These aspects will be elaborated further in the next sections, in which the following associated dilemmas will be briefly presented:

- Who is entitled to academic freedom?

[26] UNESCO (1997): The ILO/UNESCO Recommendation concerning the Status of Teachers (1966) and The UNESCO Recommendation concerning the Status of Higher-education Teaching Personnel (1997) with a user's guide. https://unesdoc.unesco.org/ark:/48223/pf0000160495

[27] EHEA (2020): Rome Ministerial Communiqué. https://ehea2020rome.it/storage/uploads/5d29d1cd-4616-4dfe-a2af-29140a02ec09/BFUG_Final_Draft_Rome_Communique-link.pdf

[28] EHEA (2020): Rome Ministerial Communiqué. Annex I. Statement on Academic Freedom. https://ehea2020rome.it/storage/uploads/5d29d1cd-4616-4dfe-a2af-29140a02ec09/BFUG_Annex-I-Communique_Statement_Academic_freedom.pdf

[29] Council of Europe (2020): Threats to academic freedom and autonomy of higher education institutions in Europe. (Rapporteur: Brenner, Koloman) https://pace.coe.int/en/files/28749#trace-2

[30] Bonn Declaration on Freedom of Scientific Research (2020). https://www.bmbf.de/bmbf/shareddocs/downloads/files/_drp-efr-bonner_erklaerung_en_with-signatures_maerz_2021.pdf?__blob=publicationFile&v=1

[31] UNESCO (2017): Recommendation on Science and Scientific Researchers. https://unesdoc.unesco.org/ark:/48223/pf0000263618.locale=en

[32] Vrielink, Jogchum – Lemmens, Paul – Parmentier, Stephan – LERU Working Group On Human Rights. (2010): Academic Freedom as a Fundamental Right. Advice Paper. League of European Research Universities (LERU). https://www.leru.org/files/Academic-Freedom-as-a-Fundamental-Right-Full-paper.pdf

[33] AAUP (2015): 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments. In: AAUP American Association of University Professors Policy Documents and Reports. 11th edition. John Hopkins University Press, Baltimore. p.13-19.

- What is the content of freedom: which rights and obligations are included in the concept of academic freedom (and which are not)?
- What is the relationship between the individual, the (academic) community, and the institution?
- What is the relationship between academic freedom and freedom of expression?
- What are other conditions of and limitations to academic freedom?

Table 1– Interpretation of academic freedom in policy documents and stakeholder recommendations

Document	Scope	Dimensions of freedom	Academic freedom is defined as	individual/collective	Further conditions
Rome Communique Annex on Academic Freedom (2020)	'academic community - including academic staff and students'	research, teaching learning the dissemination of research and teaching	distinct, fundamental democratic right universal value not an absolute value	right of the academic community	meaningful participation in governance selection of students selection of staff
UNESCO Recommendation on Teaching Personnel (1997)	who teach, undertake scholarship or research, provide educational services	freedom of teaching and discussion freedom in carrying out research and disseminating and publishing the results freedom to express their opinion about the institution or system freely	-	individual right	autonomy (self-governance, collegiality) tenure
Council of Europe Report on Academic Freedom (2020)	members of the profession	freedom to teach freedom to research	professional freedom	individual right	tenure shared governance individual autonomy institutional autonomy
LERU Advice paper on Academic Freedom (2010)	staff, students	freedom to learn freedom to teach freedom of research and information freedom of expression and publication the right to pursue professional activities outside the field of science	-	right comprising a complex set of relationships between individuals, communities and the state	institutional autonomy democratic decision-making processes state obligations
Principles on Academic Freedom by AAUP (1940, 2015)	academic staff as members of the profession	freedom of research and publication freedom in the classroom freedom of extramural utterance freedom of intramural utterance	-	individual right	tenure

3.2. Who is entitled to academic freedom?

Opinions are divided on who the holders of academic freedom are. Some documents interpret it narrowly as applying only to academics (UNESCO, AAUP); others broadly, as applying to students and administrative staff members as well (EHEA, LERU).

AAUP and the report adopted by the Council of Europe recognise academic freedom as a professional freedom that belongs to members of the academic profession. The main question is who consider being members of the profession and by what criteria we identify them.

In the narrow sense of the term, a member of the profession is someone who has formally obtained the appropriate recognition: a teaching or research position at a university or research institute (status) or the appropriate degrees and credentials.[34] In the broader sense, it is enough to accept and strive to follow the rules and approach of the profession, and this is also formally or implicitly affirmed by the members of the profession. For example, students or lay persons can be protected by academic freedom if they carry out research with the appropriate references and methodology, support their claims with arguments, acknowledge their error in the face of counter-arguments, and members of the profession recognise their claims and efforts in the various evaluation procedures (e.g., peer review, academic debate, university examinations). The report adopted by the Council of Europe states that 'students' academic freedom as scholars (as opposed to consumers) is rarely, if ever, discussed' and recommends developing a Charta of academic freedom rights for students.[35]

In the broader approach, deciding whether a researcher of uncertain status is entitled to academic freedom is more complicated. For example, it is difficult to determine when a layperson researching and publishing local history becomes a member of the academic profession. And should we consider him/her part of the academic profession if this lay research is deemed valuable by some schools of historians, whilst others do not? In such cases, the existence or violation of academic freedom should be examined individually.

3.3. The content of academic freedom: Rights and obligations

In defining the content of academic freedom, it is worth distinguishing its essential (or substantive) elements from the conditions that guarantee academic freedom (supporting elements).[36] Just as the layers of an onion protect its inside from harm, the conditions protect academic freedom. New thoughts only grow from the seed (essential elements); the protective layers (supportive elements) can only safeguard the inner core. The absence of supportive elements does not necessarily imply a violation of academic freedom but rather an unfavourable situation where violations can easily occur unobtrusively without facing consequences. In the diagram below, the essential elements are marked in yellow, while supportive elements (safeguards) are marked in blue. The essential and

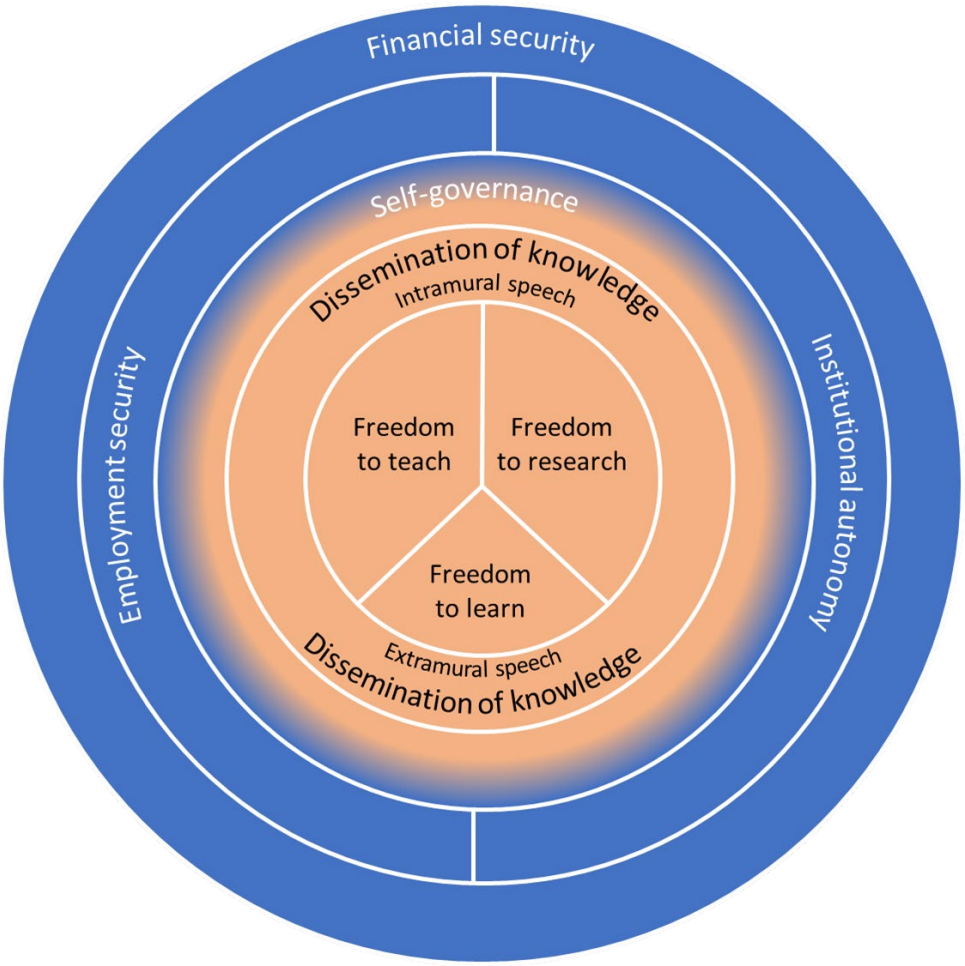
[34] For example, the European Charter for Researchers and a Code of conduct for the recruitment of researchers (adopted by the European Commission in 2005) recommends that 'All researchers engaged in a research career should be recognised as professionals and be treated accordingly. This should commence at the beginning of their careers, namely at postgraduate level, and should include all levels, regardless of their classification at national level (e.g. employee, postgraduate student, doctoral candidate, postdoctoral fellow, civil servants).' In other words, only those engaged in a research career should be recognised as professionals. Research careers are recognised only at the postgraduate level. In that sense, master students or lay persons cannot be a member of the profession. https://euraxess.ec.europa.eu/sites/default/files/am509774cee_en_e4.pdf

[35] point 27-28

[36] This distinction is made by Terence Karran and referred to in the Council of Europe report 'Threats to academic freedom and autonomy of higher education institutions in Europe' in 2020 (Rapporteur: Koloman Brenner). Karran defines the freedom to teach and the freedom to research as essential elements and tenure, shared governance and autonomy (both individual and institutional) as supportive elements. We use a similar concept but with a slightly different grouping.

supportive elements are often intermingled in policy documents or academic discourses because the borderline is blurred.

Figure 1 – The onion model: The essential (orange) and supportive (blue) elements of academic freedom



In this chapter, we discuss the essential elements (which are more related to individual academics), while the supportive elements (which are related to the community) will be covered in a later chapter.

Based on the review of policy documents, the list of essential elements of academic freedom can be broad or narrow. The narrow interpretation refers to the freedom of teaching and the freedom of research, which comprises the right to disseminate results. In a broader sense, the right to self-governance is also included in academic freedom (although sometimes it is considered a supportive element). Finally, in the broadest sense of the academic profession, the right to learn can also be considered part of academic freedom.

Freedom of teaching includes freedom of choice of content and didactics method and, within certain limits (and responsibility), freedom of choice of students. Teachers should teach without any interference, discrimination of any kind and fear of repression. Controversial topics can be discussed in lessons as long as they are not self-serving and related to the subject. The UNESCO Recommendation on teaching personnel (1997) emphasises that teachers should not be forced to instruct against their best knowledge and should play a significant role in determining the curriculum.

Freedom of research, as best summed up in the Annex of the Rome Ministerial Communiqué (2020) and the Bonn Declaration (2020), embodies the right to determine what shall (or shall not) be researched in accordance with professional standards of the respective discipline; how it shall be researched; who shall research, with whom and for what purpose research shall be pursued; the methods by which, and avenues through which, research findings shall be disseminated. These interpretations are also confirmed by the UNESCO Recommendation on Science and Scientific Researchers[37] and the UN's Committee on Economic, Social and Cultural Rights.[38]

The LERU Advice paper also adds the freedom to receive information of public interest from the public authorities, the protection of research data and sources, and the right *not* to publish (or to prohibit the publication of) something.

In some cases, freedom of teaching and freedom of research are treated together because one presupposes the other. Ideally, for example, teaching should be based on the synthesis of scholarly literature, which presupposes research. However, we argue that the separation of the two freedoms is reasonable because teaching today does not necessarily mean preparing one's own course material but creating and facilitating a learning environment, which implies pedagogical rather than research skills. In addition, researchers are not necessarily involved in teaching. Finally, there is an increasing separation of teaching-only and research-only academics in universities.[39]

Freedom of dissemination, that is, free and unrestricted sharing of knowledge and research results, means that the academic is free to choose the place and form of dissemination (publication) and is given the opportunity (and support) to establish a national and international network of contacts. For example, the Bonn declaration sets the right to 'share, disseminate and publish the results thereof openly, including through training and teaching. It is the freedom of researchers to express their opinion without being disadvantaged by the system in which they work or by governmental or institutional censorship and discrimination.'[40]

The AAUP Statement on Academic Freedom and the LERU Advice paper distinguish between communication within the academic context (intramural) and communication with the lay public (extramural). The distinction is based on the fact that extramural communication requires much greater responsibility since the academic must not only take into account the possible lack of scientific background of the audience/partner but also the need to preserve scientific integrity and the public trust in academic profession and institutions.

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[37] The Recommendation (2017) mentions intellectual freedom among the rights 'which should include protection from undue influences on their independent judgement', and the right to determine the aims and methods of research. https://unesdoc.unesco.org/ark:/48223/pf0000260889#page=116

[38] The Committee on Economic, Social and Cultural Rights (United Nations) outlined the content of scientific freedom in a comment. This freedom includes at least the following dimensions: 'protection of researchers from undue influence on their independent judgment; the possibility for researchers to set up autonomous research institutions and to define the aims and objectives of the research and the methods to be adopted; the freedom of researchers to freely and openly question the ethical value of certain projects and the right to withdraw from those projects if their conscience so dictates; the freedom of researchers to cooperate with other researchers, both nationally and internationally; and the sharing of scientific data and analysis with policymakers, and with the public wherever possible' See: CESCR. General comment no. 25 (2020) on science and economic, social and cultural rights. E/C.12/GC/25 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f25%20&Lang=en

[39] Wolf, Alison – Jenkins, Andrew (2021). Managers and academics in a centralising sector. The new staffing patterns of UK higher education. The Policy Institute. https://www.kcl.ac.uk/policy-institute/assets/managers-and-academics-in-a-centralising-sector.pdf

[40] The freedom of dissemination is in line with the Open Science policies conducted in the European Research Area. https://research-and-innovation.ec.europa.eu/strategy/strategy-2020-2024/our-digital-future/open-science_en

Freedom of dissemination is often not presented as an independent right but as an integral part of freedom of research and/or teaching. However, we feel justified in presenting freedom of dissemination as a distinct right for two reasons: firstly, it is the right most closely related to freedom of expression, and the link between academic freedom and freedom of expression is thus easier to identify. (See later chapter on this issue.) On the other hand, in many cases, the violation of academic freedom explicitly infringes on the right of dissemination, particularly the extramural right, and the delimitation of the nature of violations is therefore clearer.

The right to self-governance is sometimes seen[41] as a supportive element of academic freedom rather than an essential element. Most policy documents, however, consider self-governance as an integral part (essential element) of academic freedom on the basis that the operational regulation of teaching, research and the evaluation policy of academic performance directly affects the freedom of the individual to teach and conduct research. Therefore, all academics should have a meaningful possibility to influence these decisions. This includes the 'freedom to express freely their opinion about the institution or system in which they work'[42] without any fear. This pertains to being able, to question the norms and functioning of the academic community itself, which is close to the right to intramural speech. Furthermore, it includes the right to be elected to decision-making bodies or to participate meaningfully in an agreed system of governance. The UNESCO Recommendation on Teaching Personnel (1997) explicitly suggests that academics 'should also have the right to elect a majority of representatives to academic bodies'[43]. Both the UNESCO Recommendation on Teaching Personnel (1997) and the LERU Advice paper propose a democratic, collegial way of decision-making because this is the way that will least restrict the academic freedom of individuals.

Self-governance could lead to difficulties in decision-making, which is why the Council of Europe Report (2020) emphasises the need for protocols that provide safeguards against filibustering, policy gridlock and professorial oligarchy.[44]

Freedom of learning (or freedom to study) is articulated clearly in the Annex of the Rome Ministerial Communique (2020) as an integral part of academic freedom because 'the freedom to teach also raises the question of who is to be taught and is thus intimately linked to the freedom to learn.' The freedom to learn raises the question of access to higher education and its related administrative procedures.

The content of this right is clearly defined in the advice paper by LERU, which states that the two main elements are the right to education and the right to form (and change) one's own opinion freely. The right to education does not mean that a university must teach everyone unconditionally. Universities are obliged to have predictable and transparent selection criteria and procedures. This does not exclude positive discrimination against disadvantaged groups or equal opportunity programmes. Freedom to learn also includes conditions and obligations (such as respect for students' individual rights) limiting the academic freedom of teaching.

Responsibilities, accountability, and obligations are also part of academic freedom. There is a consensus in policy papers (such as UNESCO Recommendation on Teaching Personnel or the EHEA Annex) and stakeholder opinions (LERU Advice paper, AAUP Statement) that academic freedom is

[41] For example, the report adopted by the Council of Europe (2020) explicitly considers the 'right to voice their opinions on their institution's educational policies and priorities without the imposition or threat of punitive action' as part of the shared governance, a supportive element (points 21).

as a supportive element.

[42] UNESCO Recommendation on Teaching Personnel (1997), point 27.

[43] UNESCO Recommendation on Teaching Personnel (1997), point 31.

[44] Council of Europe Report (2020), point 21.

not an absolute right. This is particularly important because the absence of academic integrity (academic corruption, misuse of freedom etc.) can undermine the legitimacy of academic freedom and the academic profession in society.

The content of responsibilities needs to be defined to the same extend as the content of freedoms. It is generally put forth that the rights conferred by academic freedom only apply to members of the profession in the specific field of their discipline. If somebody is not an expert in a field of study, he or she cannot claim academic freedom. This is especially important in partnerships and/or dissemination activities or extramural speech situations: academics should not invoke their academic position or academic freedom when expressing their opinion on a topic that falls outside their academic expertise.

Most obligations relate primarily to the teaching of students. For example, it is expected to avoid bias, distortion, misinterpretation, and deliberate forms of misrepresentation.[45] Any indoctrination that does not leave room for students to freely develop their own opinions and views should also be avoided. Teachers should strive for continuous acquisition and renewal of knowledge. The learning process should not violate students' privacy rights (no stigmatising, belittling, or discriminatory comments). The AAUP stresses that teachers should refrain from bringing controversial issues unrelated to the subject into the classroom.

In the case of research, most policy papers and stakeholder recommendations emphasise the need to uphold accepted professional standards, professional responsibility, and research ethics. The European Charter for Researchers also addresses the obligations of researchers.[46]

3.4. Academic freedom as an individual and as a community right: the relationship between academic freedom, self-governance, shared governance and institutional autonomy

In academic discourses and policy recommendations, there is a distinction between academic freedom as an individual right and as a right for the academic community.[47] The root of the issue is that the rights that come with academic freedom are subject to conditions and obligations that the academic community can only collectively secure. On the one hand, the academic community enhances and protects the academic freedom of individuals in justified situations (e.g., when expressing critical opinions against powerful social actors). On the other hand, it is only the academic community that can effectively monitor the behaviour of an academic and coordinate their activity (e.g., the organisation of a study program), which also ensures the social acceptance and sustainability of the academic profession. Both roles are based on standards, norms and regulations set by the academic community.

These standards, norms and regulations, however, can also limit the academic freedom of individuals, for example, to decide on the criteria for the selection of students and teachers, the content of courses, and the evaluation criteria for teachers and researchers.[48] In making these

[45] See, for example, UNESCO Recommendation on Teaching Personnel (1997), point 34.

[46] European Commission (2005). European Charter for Researchers and The Code of Conduct for the Recruitment of Researchers. European Commission, Directorate-General for Research, Brussels. https://euraxess.ec.europa.eu/sites/default/files/am509774cee_en_e4.pdf

[47] For example, Annex I of the Rome Ministerial Communique states that 'academic freedom designates the freedom of the academic community', while UNESCO Recommendation on Teaching Personnel or the Council of Europe report discuss academic freedom as an individual right. For example, the Council of Europe report states that 'academic freedom is a professional freedom granted to individual academics' (point 17)

[48] See, for example, LERU Advice paper (2010).

decisions, the academic community should not constrain the academic freedom of its members more than is necessary, which is best guaranteed by a transparent and democratic **self-governance** of the academic community.[49]

Self-governance does not mean that the academic community should make all decisions unilaterally. The academic community should primarily take decisions on academic matters, i.e., self-governance is needed if academic freedom is to be fully exercised. Nevertheless, accountability requires that decisions about the institution should be shared between different actors, typically the board representing external stakeholders, management and academic community members. This kind of **shared governance** requires the possibility for the academic community to have 'meaningful participation'[50] or 'an equal right'[51] in all decisions affecting the functioning and future of the university.[52]

The academic freedom of a community is closely related to the concept of **institutional autonomy** because a higher education or research institution is an embodiment of an academic community. As the European Court of Justice points out, 'academic freedom did not only have an individual dimension (…) but also an institutional and organisational dimension reflected in the autonomy of those institutions'[53] As we have seen, self-governance (as an individual right to have a say) is also an integral part (essential element) of academic freedom in some interpretations. Therefore, the concepts of academic freedom, self-governance, and institutional autonomy are often conflated in academic writings as well as in political discourses.

The confusion arises because the concept of institutional autonomy is used with two different connotations in academic and policy discourses.

On the one hand, institutional autonomy is understood as the extent to which the institution's internal stakeholders (academics, students, staff) can participate in the decision-making process, that is, the degree of self-governance. For example, the UNESCO Recommendation on Teaching Personnel defines autonomy as the 'degree of self-governance necessary for effective decision making by institutions of higher education regarding their academic work, standards, management and related activities consistent with systems of public accountability'.[54]

On the other hand, institutional autonomy can be understood as the distance of the institution from the state (or maintainer), i.e., the degree of institutional autonomy and the topics the institution has the right to make decisions on, regardless of who is authorised to take these decisions on behalf of the institution (the management or some academic body). If we accept a narrower interpretation of academic freedom, it is sufficient if autonomy covers only matters related to teaching and research (decisions such as marking students or recruiting and assessing academics). However, if a broader interpretation is adopted, decision-making should also cover shaping the broader conditions of teaching and research (HR, finance, and organisational issues). For example, the Autonomy Scorecard of the European University Association uses this concept. In their explanatory study,

[49] See, for example, point 65 in LERU Advice paper (2010), EHEA (2020) and point 21 and 31 in UNESCO Recommendation on Teaching Personnel (1997)

[50] The Annex I of the Rome Ministerial Communique requires that 'academic staff and students should participate meaningfully in decision-making processes'.

[51] Council of Europe report, point 21. See also:

[52] See, for example, AAUP's position on shared governance at https://www.aaup.org/programs/shared-governance/faqs-shared-governance

[53] Case C 66/18: European Commission v Hungary, https://curia.europa.eu/juris/document/document.jsf;jsessionid=058EF26C8951CC20CE329BBC9B2F65BB?text=&docid=237114&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=3301047

[54] UNESCO Recommendation on teaching personnel, point 17.

Thomas Estermann and Terhi Nokkala defined institutional autonomy as 'the constantly changing relations between the state and higher education institutions and the degree of control exerted by the state.' [55]

In our opinion, both interpretations of autonomy are necessary to effectively protect academic freedom because even if institutions can decide on many issues, academic freedom may be compromised in case the academic community members are not involved (e.g., because management makes decisions unilaterally). The UNESCO Recommendation on Teaching Personnel argues, for example, that institutional autonomy must ensure academic freedom and not lead to its erosion when it states that 'institutional autonomy should not be used by higher education institutions as a pretext to limit the individual rights of higher-education teaching personnel.'[56] The Council of Europe report also warns against increased managerialism stemming from neoliberal reforms and the marketisation of higher education.[57]

Summarising the above arguments, we follow the position that institutional autonomy – the wide range of decisions that can be taken at the institutional level, combined with the right of self-governance – can protect academic freedom from erosion. As such, it is an important supportive element of academic freedom.

3.5. Academic freedom and freedom of expression

In recent years there have been debates in various countries in which the issue of academic freedom has been linked to the freedom of expression. Such disputes have taken place, for example, concerning phenomena such as no-platforming[58], safe spaces, trigger warnings[59] and microaggression[60].

In addition, a number of policy documents and a decision of the European Court of Justice also linked these two rights. The Annex of the Rome Ministerial Communique states that '[a]cademic freedom is similar to freedom of expression and is both informed by the standards of academic disciplines and provides the condition for challenging these standards based on the results of research.' (EHEA 2020) The report adopted by the Council of Europe (2020) and the UNESCO Recommendation on Teaching Personnel (1997) also refer to the two freedoms as rights to be exercised side by side. It is, therefore, worth briefly looking at the relationship between them.

Defining the relationship between these two rights is particularly important in countries where academic freedom – especially the freedom to research and question accepted views – is not granted a high level of constitutional or legal protection. In these countries, the derivation of

[55] Estermann, Thomas – Nokkala, Terhi (2009): University Autonomy in Europe I. Exploratory Study. European University Association, Brusseles. p.6. https://eua.eu/downloads/publications/university%20autonomy%20in%20europe%201%20-%20exploratory%20study%20.pdf

[56] UNESCO Recommendation on teaching personnel, points 20. This point is also confirmed by the LERU Advice paper, point 68.

[57] Council of Europe report (2020), point 42-53. See also: Karran, Terence – Beiter, Klaus D. – Appiagyei-Atua, Kwadwo (2017) Measuring academic freedom in Europe: a criterion referenced approach, Policy Reviews in Higher Education, 1(2):209-239, DOI: 10.1080/23322969.2017.1307093

[58] Cambridge Dictionary defines no-platforming as 'the practice of refusing someone an opportunity to make their ideas or beliefs known publicly because you think these beliefs are dangerous or unacceptable'.

[59] Trigger warnings are statements at the beginning of a course, book, etc., warning people that they may find the content very upsetting. (Cambridge Dictionary; https://dictionary.cambridge.org/dictionary/english/trigger-warning)

[60] A Microaggression is 'a small act or remark that makes someone feel insulted (…) even though the insult, etc. may not have been intended' (Cambridge Dictionary; https://dictionary.cambridge.org/dictionary/english/microaggression)

academic freedom from freedom of expression can serve as protection.[61] However, this effort can only be partially successful because academic freedom includes many rights not covered by freedom of expression. These include, for example, the freedom to teach and to research or, in a broader interpretation, the right to self-governance or the right to study.

According to the Universal Declaration of Human Rights, freedom of expression is the right to 'hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers' (article 19).[62] It is considered a fundamental right and is protected by several other international conventions, such as the European Convention on Human Rights[63] or the Charter of Fundamental Rights of the European Union[64].

The common ground of academic freedom and freedom of expression is that both rights protect the right to share scientific results and opinions, as well as the right to publicly express criticism of scientific results, the functioning of the university or the standards of the discipline. But while freedom of expression is based on personal conviction, academic freedom is based on scientifically grounded analysis. Academic freedom can be seen as a specific, strengthened case of freedom of expression. Consequently, the conditions for applying for academic freedom are tighter than those for freedom of expression. An opinion enjoys the protection of academic freedom only if it conforms to practices and norms accepted by the academic community, such as arguing for its position, using scientific methods, providing references or meeting ethical standards. This assumes that the academic community has the autonomy to govern itself, to set standards, for example.[65]

In addition to the academic community's standards, academic freedom may also be constrained by the same restrictions that apply to freedom of expression. Because freedom of expression is a fundamental right, it can be proportionately restricted only with respect to other fundamental rights. A typical example is the right to human life and dignity, which can also restrict academic freedom. This is the reason why hate speech is not even possible under the protection of academic freedom.[66]

Freedom of expression and speech can also limit academic freedom, which is implied by the obligation to ensure students' freedom of indoctrination and freedom of expression.

The reason for many recent 'no platform' and similar disputes about infringements of academic freedom is, that it is difficult to assess whether a particular utterance meets the criteria of a scientifically justified opinion and/or offends the dignity and sensitivity of others and can therefore be considered hate speech. In many other debates, students' freedom of expression and academics' academic freedom are in conflict.

[61] This is why the discourse on academic freedom differs in many ways in the US, the UK and the European Union.

[62] https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

[63] Article 10 of the European Convention on Human Rights (https://www.echr.coe.int/documents/convention_eng.pdf)

[64] Article 11 of the Charter of Fundamental Rights of the European Union (https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT)

[65] See subchapter 3.3. (responsibilities) and 3.4.

[66] Vrielink, Jogchum – Lemmens, Paul – Parmentier, Stephan – LERU Working Group On Human Rights. (2010): Academic Freedom as a Fundamental Right. Advice Paper. League of European Research Universities (LERU). https://www.leru.org/files/Academic-Freedom-as-a-Fundamental-Right-Full-paper.pdf

3.6. Employment security and academic freedom

Civil service, tenure or similar secure employment conditions are widely considered a supportive element of academic freedom. The UNESCO Recommendation on Teaching Personnel states that 'tenure or its functional equivalent, where applicable, constitutes one of the major procedural safeguards of academic freedom and against arbitrary decisions'.[67] An employment relationship is deemed secure if it is indefinite (permanent, open-ended) and can only be terminated under specific conditions.[68]

According to the UNESCO Recommendation on Teaching Personnel, the Council of Europe's report and the AAUP Statement of Academic Freedom, a secure employment contract contains two important elements:

1. Academics cannot be dismissed from the institution because of their professional views. If academics feel threatened because of their professional standpoints, they are not free to express it and thus do their job. The employment of academics can only be terminated after rigorous evaluation on professional grounds and following a due process. It is allowed to terminate continuous employment in case of financial exigency.

2. Permanent or open-ended employment requires demonstrating a high level of professional competence. An academic may be granted a permanent position after a probationary period, after which *peers* judge his/her performance on professional grounds, which assumes a certain degree of self-governance.

As explained in subchapter 3.2., not only academics with permanent contracts belong to the academic profession, i.e., they are not the only ones who have academic freedom. In Europe, a significant proportion of academics and researchers are employed on fixed-term contracts, but the proportion varies considerably from country to country.[69] Tenure or other permanent contracts thus does not apply to everyone, but where it exists, it promotes academic freedom.

3.7. Conclusions

There is widely shared consensus regarding the essential elements of academic freedom. Academic freedom also comprises supportive elements, the lack of which makes essential elements vulnerable and easily challenged. Some argue that these supportive elements are integral parts of academic freedom, while others think they are only safeguards. It is rarely questioned, however, that supportive elements play a vital role in protecting academic freedom.

The 'onion model' is an adequate tool to assess the extent to which academic freedom is exercised in a given country or institution. This model consists of the following elements.

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[67] UNESCO Recommendation on teaching personnel (1997), point 45.

[68] For example, AAUP defines a tenured appointment as 'an indefinite appointment that can be terminated only for cause or under extraordinary circumstances such as financial exigency and program discontinuation.' https://www.aaup.org/issues/tenure

[69] For example, a study analysing the employment frameworks and conditions of researchers, stated that 'In 2019, 87% of researchers sampled in AngloSaxon countries have permanent contracts, along with 69% of researchers in Continental European countries, and 78% of researchers in Southern European countries. This implies that fewer researchers are now on fixed-term contracts (EU28 2012: 34%, 2016: 26%, 2019: 20%).' See: European Commission (2021). MORE4 study. Support data collection and analysis concerning mobility patterns and career paths of researchers. European Commission, Directorate-General for Research & Innovation, Brussels. p. 84. https://cdn5.euraxess.org/sites/default/files/policy_library/more4_final_report.pdf

1) The existence and extent of the essential elements:

a) freedom to teach: the freedom to choose the topic, the content, the method and the students,

b) freedom to research: the freedom to decide on the topic, the method and the collaborative partners of a research

c) freedom to disseminate: the freedom to share results, knowledge and opinion within and without the institution

d) freedom of self-governance: the freedom to associate as an academic community and the right to determine the frameworks and professional (including ethical) standards and rules of the academic activities and to have a meaningful voice in factors affecting freedom of teaching, research and learning.

2) The existence and quality of the supporting elements of academic freedom:

a) institutional autonomy, that is, whether the institution has the decision-making power, resources and opportunities to ensure academic freedom within the institution,

b) employment security ('tenure'), that is, whether regulations ensure long-term secure employment which can only be terminated on professional and merit grounds,

In addition, two further elements are also worth examining:

c) quality of legislation, that is, whether the national regulations ensure detailed guarantees which cover the full field of academic freedom and whether they are included in the highest level (i.e., constitutional) legal regulations,

d) promotion of academic integrity and responsibility, that is, how academic communities try to uphold the integrity of individual academics.

We will apply the onion model to assess existing monitoring methods of academic freedom.

4. Key players and stakeholders in academic freedom

As academic freedom is often associated with educational rights and human rights, some organisations address the issue of academic freedom as part of a broader issue. Others are more focused on the specific functioning and values of higher education.

Below we provide and overview of those actors who, beyond political declarations, are committed in processes and projects and produce materials that address or relate to the issue of academic freedom. Table 2 summarises the major actors based on their status and relationship to academic freedom. Other organisations consider academic freedom to be an important issue, but they rarely go beyond issuing a declaration.

Although there are several local initiatives on the national level coming from governments (e.g., the UK, Australia) or non-governmental organisations, we focus only on international initiatives in this chapter.

Table 2 – Key players in academic freedom

	Academic Freedom is part of a broader focus	Special focus on academic freedom
Political/inter-governmental	United Nations (Human Rights Council) European Parliament	United Nations Educational, Scientific and Cultural Organization (UNESCO) Council of Europe European Commission The international collaboration of the European Higher Education Area (EHEA)
NGO or stakeholder representation	Human Rights Watch Freedom House	Magna Charta Observatory Scholars at Risk American Association of University Professors European Student Union
Academic	Varieties of Democracy Institute (V-Dem)	Global Observatory of Academic Freedom

United Nations

The **United Nations** has reaffirmed academic freedom in many statements. These include, for example, the International Covenant on Civil and Political Rights (1966) and International Covenant on Economic, Social and Cultural Rights (1966), which stipulates that States 'undertake to respect the freedom indispensable for scientific research and creative activity.' The United Nations has launched the Universal Periodic Review of Human Rights (UPR) to monitor human rights, including the situation of education and academic freedom.

UNESCO, the UN's Educational, Scientific and Cultural Organization, has made two detailed recommendations on academic freedom. The Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) deals comprehensively with the procedures, processes, and rights affecting the status of teachers. To monitor the implementation of the Recommendations, UNESCO, together with the ILO, operates the Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), which also monitors the implementation of academic freedom.

The Recommendation on Science and Scientific Researchers (2017)[70] makes suggestions on the employment of researchers. It reaffirms the right of researchers 'to work in a spirit of intellectual freedom to pursue, expound and defend the scientific truth as they see it, an intellectual freedom which should include protection from undue influences on their independent judgment.'

European Union

The **European Union**'s commitment in the discourse on academic freedom is grounded in the EU Charter of Fundamental Rights, which states that 'the arts and scientific research shall be free of constraint. Academic freedom shall be respected.' (Article 13). The Charter is legally binding in every EU Member State. The various EU bodies have taken many initiatives to protect academic freedom recently.

In 2018, the **European Parliament** issued a recommendation on the need for enhanced protection of academic freedom.[71]

The **European Research Area** (ERA) is an initiative of the EU member states to improve the coordination of research and promote researcher mobility. The ERA committed itself to strengthen the 'freedom of scientific research' in a declaration at the 2020 Ministerial Conference in Bonn. The ERA policy agenda for 2022-2024 devotes a specific action point to 'deepening the ERA through protecting academic freedom in Europe,' which includes the preparation of a European monitoring report to identify countries and partner institutions where academic freedom is at risk, to conduct a vulnerability assessment and to strengthen commitment.

In 2022, the **European Commission** published several policy papers and strategies which acknowledged academic freedom as a fundamental European value and focused on strengthening it. The two strategy documents that describe priorities are 'A European strategy for universities' and the 'European Research Area Policy Agenda'. These were accompanied by a staff working paper (Building bridges for effective European higher education cooperation) and a guideline for actors (Tackling R&I foreign interference). The initiatives of the European Commission will be discussed in detail in chapter 5.1.

European Higher Education Area and the Bologna Follow-up Group (EHEA / BFUG)

The intergovernmental cooperation known as the Bologna Process first called for enhanced protection of fundamental values, including academic freedom, in a declaration of the 2018 ministerial meeting in Paris. At the Rome meeting in 2020, the ministerial meeting addressed the interpretation of academic freedom, which was issued as the annex of the ministerial communique. In addition, a working group was set up to 'develop a comprehensive framework to further the monitoring and implementation of the fundamental values' based on self-reflection, constructive dialogue, and peer learning.[72] This project is described in more detail in chapter 5.2.

Council of Europe

The Council of Europe is an international organisation of European states to uphold human rights, democracy and the rule of law in Europe. The Council of Europe has addressed the social responsibility of higher education, academic freedom, and the autonomy of higher education in

[70] Unesco (2017): Recommendation on Science and Scientific Researchers. https://unesdoc.unesco.org/ark:/48223/pf0000263618.locale=en, point 16.

[71] P8_TA(2018)0483 Defence of academic freedom in the EU's external action. European Parliament recommendation of 29 November 2018 (2018/2117(INI)). See: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018IP0483&from=EN

[72] http://www.ehea.info/page-Working-Group-FV

many resolutions over the past decades. While the majority of the recommendations have interpreted the concept of academic freedom in a rather general way and pointed out its desirability, the 'Threats to academic freedom and autonomy of higher education institutions in Europe' Report[73], published in 2020, attempted to operationalise the concept. It presented a detailed assessment of the situation. The related Parliamentary Assembly Recommendation invited the Steering Committee for Education Policy and Practice, together with other stakeholders, to survey the extent to which stakeholders in higher education are aware of developments in academic freedom, as well as the effectiveness of constitutional provisions and legislative frameworks in each country. Moreover, the report assessed the need for and feasibility of a binding instrument on academic freedom and institutional autonomy.

Academic Stakeholder Organisations

Different stakeholder organisations show different levels of activity concerning academic freedom.

The **Magna Charta Universitatum Observatory** defines itself as the global guardian of fundamental university values, which are defined in the Magna Charta Universitatum, a declaration on the role of higher education institutions in society, drawn up in Bologna in 1988 by more than 800 rectors. The declaration proclaims the social responsibility of universities, the need for intellectual independence, and that 'freedom in research and training is the fundamental principle of university life,' which must be respected. The declaration was reaffirmed in 2020.[74] To implement the Declaration, the Magna Charta Universitatum Observatory was established. The Observatory's initiative is the 'living values project', which aims to promote a more value-conscious university environment by supporting self-reflective organisational development projects in universities. (see chapter 5.3 for further information)

The activities of the **European University Association** (EUA) have rarely focused on academic freedom. However, their regularly published scorecard on institutional autonomy has fostered the thematic thinking about institutional autonomy and the acceptance of the operationalisation thereof. In 2019, the EUA published a joint-position paper[75] with **ALLEA** and **Science Europe** reaffirming the importance of academic freedom and institutional autonomy, but the position paper was not accompanied by an action plan.

Several other stakeholder organisations have published statements on academic freedom in recent years, including the **European Student Union** (ESU)[76], the **International Association of Universities** (IAU)[77] and the **Guild of the European Research Intensive Universities.**[78]

[73] Council of Europe (2020): Threats to academic freedom and autonomy of higher education institutions in Europe. (Rapporteur: Brenner, Koloman) https://pace.coe.int/en/files/28749#trace-2

[74] https://www.magna-charta.org/magna-charta-universitatum/mcu2020

[75] https://allea.org/allea-eua-and-science-europe-publish-joint-statement-on-academic-freedom-and-institutional-autonomy/

[76] ESU (2023): Report: Survey on Academic Freedom, Institutional Autonomy and Academic Integrity from a Student Perspective. European Student Union, Brussels. https://esu-online.org/publications/report-survey-on-academic-freedom-institutional-autonomy-and-academic-integrity-from-a-student-perspective/

[77] IUA (1998): Academic Freedom, University Autonomy and Social Responsibility. Policy Statement. https://www.iau-aiu.net/IMG/pdf/academic_freedom_policy_statement.pdf

[78] The Guild Statement on Academic Freedom. https://www.the-guild.eu/publications/statements/the-guild_statement-on-academic-freedom_june-2021.pdf

Amongst all academic stakeholder organisations, the **League of European Research Universities** (LERU) addressed the issue in the most depth, publishing a very detailed advice paper on academic freedom.[79]

Particularly noteworthy is the **Association of American University Professors** (AAUP), which articulated its interpretation of academic freedom as early as 1915. It has been revised several times, most recently in 1970. Universities have also incorporated AAUP's statements and regulatory proposals, available in the so-called Red Book, into their regulations.[80] The AAUP maintains a special body and procedures for investigating individual cases of violations of academic freedom. A detailed report is published on each case, and a censure list is maintained of institutions that violate academic freedom. Although the interpretation of academic freedom in the US and Europe differs due to differences in legal systems, the AAUP's decades of work, well-developed positions, and textual proposals are important reference points in the discourse on academic freedom.

International NGOs and Academic Research Organisations

International NGOs are also active in monitoring academic freedom.

The international network **Scholars at Risk** (SAR) is very active in promoting academic freedom and protecting oppressed researchers. In 2012, SAR launched the Academic Freedom Monitoring Project[81], in which volunteer researchers document attacks on higher education in specific countries or regions. These have been published annually since 2015 in Free to Think reports. SAR also runs an online course on academic freedom and publishes specific reports and guides on academic freedom.

The Global Public Policy Institute (GPPi) is an independent non-profit think tank that carries out projects in a wide range of areas (e.g., migration, peace & security, etc.) GPPi has developed and publishes the Academic Freedom Index together with the **V-Dem Institute** (Göteborg University).

Human Rights Watch, an international human rights organisation, has published occasional country reports and briefings on academic freedom over the past decades (e.g., in Indonesia, Egypt, and other African countries). Recently, HRW has published several articles and studies on the situation of Chinese students and researchers living abroad. They have also released a collection of recommendations on how to resist Chinese state organs' attempts to influence through higher education.[82]

Freedom House publishes the annual Freedom in the World report[83], in which countries are rated according to the extent to which they enjoy political rights and freedoms. One of the 25 indicators examined is the presence of academic freedom and the lack of political indoctrination in education. In addition, Freedom House published two studies in 2021: one on smart repression in Turkey and

[79] Vrielink, Jogchum – Lemmens, Paul – Parmentier, Stephan – LERU Working Group on Human Rights. (2010): Academic Freedom as a Fundamental Right. Advice Paper. League of European Research Universities (LERU). https://www.leru.org/files/Academic-Freedom-as-a-Fundamental-Right-Full-paper.pdf

[80] The current Statement on Academic Freedom and Tenure can be found here: https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure. The Red Book is available here: https://www.aaup.org/reports-publications/publications/redbook

[81] https://www.scholarsatrisk.org/actions/academic-freedom-monitoring-project/

[82] Human Rights Watch (2019): Resisting Chinese Government Efforts to Undermine Academic Freedom Abroad. A Code of Conduct for Colleges, Universities, and Academic Institutions Worldwide. https://www.hrw.org/news/2019/03/21/china-government-threats-academic-freedom-abroad

[83] https://freedomhouse.org/report/freedom-world

the other on the negative impact of the internationalisation of British higher education on academic freedom.

Among academic organisations, the **Global Observatory on Academic Freedom** (GOAF), requires special attention. GOAF is an initiative of the Central European University established in 2021. The organisation aims to connect scholars in academic freedom, to publish a yearly global report on the state of the field, accompanied by several case studies on positive developments or threats and infringements, and to maintain an online repository of relevant resources.[84]

[84] https://elkana.ceu.edu/global-observatory-academic-freedom

5. Summary of European initiatives to protect academic freedom

In this chapter, we briefly review the major concrete initiatives at the European (i.e., not national) level that aim to promote academic freedom. Some of these aim to define and regulate academic freedom, raise awareness around academic freedom, and monitor its quality.

5.1. European Commission

In 2022, the European Commission published the document entitled **European strategy for universities**[85] (hereinafter: EC Strategy), which discusses goals regarding academic freedom. The EC Strategy set four joint key objectives to be achieved by 2024:

a. strengthen the European dimension in higher education and research;
b. support universities as lighthouses of our European way of life;
c. empower universities as actors of change in the twin green and digital transitions;
d. reinforce universities as drivers of the EU's global role and leadership.

The strategy targets initiatives through which these objectives can be realised. Promoting and protecting European democratic values, including academic freedom, is one of the means to achieve the second objective (universities as lighthouses of the European way of life).

The strategy confirms the major elements of academic freedom: teaching, research, dissemination, self-governance and autonomy when it declares, 'Universities need to be places of freedom: for speech, thought, learning, research and academic freedom at large. Academic freedom cannot be isolated from institutional autonomy, nor the participation of students and staff in higher education governance.' (p. 9). Because there is concern over threats to fundamental academic values, including academic freedom and university autonomy, the EC plans to integrate academic freedom and integrity into the new Erasmus Charter for Higher Education and the new Erasmus Student Charter.[86] In 2023, the Commission will set up a European Higher Education Sector Observatory to monitor the higher education sector's performance across various fields by combining existing data sources (such as ETER, U-Multirank, Eurostudent, etc.). The European Higher Education Sector Scoreboard to be developed by the Observatory should be able to monitor academic freedom and fundamental values, among other indicators.

The strategy is accompanied by a **staff working document**[87] which discusses in length the importance of academic freedom. It depicts academic freedom as a fundamental right deeply embedded in European values threatened in the 'post-truth' era. The document urges

a. to create guiding principles on protecting fundamental academic values and addressing disinformation,

[85] European Commission (2022): European strategy for universities. COM/2022/16 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2022:16:FIN

[86] It is also worth mentioning that all Horizon Europe association agreements and projects promote academic freedom and freedom of scientific research by explicitly referring to them in their preamble. Non-compliance with the core principles can lead to the termination of the agreement. (E-002715/2022 Answer given by Ms Gabriel on behalf of the European Commission (13.9.2022)) https://www.europarl.europa.eu/doceo/document/E-9-2022-002715-ASW_EN.pdf

[87] European Commission (2022): Proposal for a Council Recommendation on building bridges for effective European higher education cooperation. Staff working document. SWD(2022) 6 https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=SWD:2022:6:FIN

b. to increase the involvement of learners, teachers, academics, researchers, and general staff in higher education governance,
c. to develop their civil role and social responsibility to increase public trust and credibility in the value of science,
d. to tackle foreign interference,
e. to implement and monitor the freedom of scientific research, and
f. to promote the inclusion of fundamental values within the European Standards and Guidelines for Quality Assurance for Higher Education in Europe in the European Higher Education Area.

In another strategy document, titled '**European Research Area Policy Agenda**. Overview of actions for the period 2022-2024',[88] the EC Directorate-General for Research and Innovation suggested actions to help to realise the priority areas defined by Council Recommendation on a Pact for Research and Innovation in Europe (Pact for R&I).[89]

The action of 'Deepening the ERA Through Protecting Academic Freedom in Europe' intends to promote the priority area called 'Deepening a Truly Functioning Internal Market for Knowledge'. It states attempts of foreign autocratic and illiberal governments to influence academic freedom, may pose an actual threat to it. Unlike the EC strategy, the Policy Agenda does not mention the dangers of academic freedom originating from other sources or from within the EU. It focuses solely on foreign interference. The action calls for publishing a guideline to help institutions to identify and assess risks and vulnerabilities arising from foreign interference. This guideline, titled **Tackling R&I Foreign Interference,** has already been published.[90]

Another outcome of this action will be the publication of the first European monitoring report on the freedom of scientific research, but it is not clear yet by whom and how the report should be developed.

5.2. Bologna Follow-up Group / Fundamental Values project

In 2018, the Paris Communiqué of the Ministers of the European Higher Education Area defined the fundamental values of higher education: 'Academic freedom and integrity, institutional autonomy, participation of students and staff in higher education governance, and public responsibility for and of higher education form the backbone of the EHEA.'[91]

After the conference, a working group was set up to define fundamental values more precisely and to develop a methodology and indicators for their regular monitoring. The working group drafted the first annex to the Rome Ministerial Communiqué on academic freedom, published in 2020. But this was not the end of the working group's task.

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[88] European Commission (2021): European Research Area Policy Agenda – Overview of actions for the period 2022-2024. https://research-and-innovation.ec.europa.eu/system/files/2021-11/ec_rtd_era-policy-agenda-2021.pdf

[89] European Commission (2021): COUNCIL RECOMMENDATION on a Pact for Research and Innovation in Europe. COM(2021) 407. https://research-and-innovation.ec.europa.eu/system/files/2021-07/ec_rtd_pact-for-research-and-innovation.pdf

[90] European Commission(2022): Tackling R&I foreign interference : staff working document, Publications Office of the European Union, 2022, DOI: 10.2777/513746 https://op.europa.eu/en/publication-detail/-/publication/3faf52e8-79a2-11ec-9136-01aa75ed71a1/language-en Member States also conducted investigation on this issue, for example, the French Seante published a report 'RAPPORT D'INFORMATION FAIT au nom de la mission d'information (1) sur les influences étatiques extra-européennes dans le monde universitaire et académique français et leurs incidences' https://www.senat.fr/rap/r20-873/r20-8731.pdf

[91] http://www.ehea.info/media.ehea.info/file/2018_Paris/77/1/EHEAParis2018_Communique_final_952771.pdf

The current aim is to have indicators reflecting the de jure situation of the fundamental values to be published in the 2024 Bologna Process Implementation report and to implement indicators reflecting the de facto situation by 2025-26.[92]

One of the starting points for the group is that the Bologna Implementation report should be a mirror for authorities. Therefore, the monitoring framework of fundamental values must be evidence-based, and the evaluation should be carried out by bodies or teams independent of public authorities.[93]

The working group has identified academic freedom as one of the least reported fundamental values in international monitoring reports (such as the Bologna Process Implementation Report).[94] Although monitoring academic freedom is a challenge, there are ideas for the evaluation and indicators of academic freedom, which could include aspects such as[95]:

a. Campuses free from politically motivated surveillance or security infringements,
b. Constitutional provisions to protect academic freedom,
c. Scholars and university students able to publicly criticise government policies,
d. Universities exercise institutional autonomy in practice,
e. Legal protection of academic freedom,
f. Requirements of external quality assurance.

At the working group meeting, the possibility of integrating the assessment of fundamental values into the existing EHEA procedures, most notably the accreditation procedures based on the European Standards and Guidelines, was raised.[96]

The argument in favour such integration is that academic freedom determines the quality of education and research, so positioning it as a more direct normative expectation would raise awareness around academic freedom and would receive more emphasis from both agencies and institutions. It would also make the enforcement of academic freedom in international cooperation easier. Moreover, the independence of quality assurance agencies, which is a condition for the European Quality Assurance Register for Higher Education (EQAR) registration, would allow for an independent assessment of academic freedom.

The arguments against this proposal were mainly practical. For example, the focus of established accreditation processes would be undermined by emphasising aspects that are more difficult to grasp (e.g., academic freedom). In addition, academic freedom rarely depends fully on institutions or agencies. They cannot, therefore, be held fully accountable.

In this context, it is worth noting that the European Standards and Guidelines (ESG), on which all institutional accreditation is based in EHEA, do not mention academic freedom as a standard. It is only mentioned in the guidelines for ESG standard 1.1 Policy for quality assurance which says that quality assurance policies should support 'academic integrity and freedom and is vigilant against academic fraud.'[97] Daniela Craciun's[98] analysis shows that there are only four countries in EHEA

[92] http://www.ehea.info/Upload/Task_Force_for_Future_Monitoring_of_Values_Final_Report.pdf

[93] http://www.ehea.info/Upload/Task_Force_for_Future_Monitoring_of_Values_Final_Report.pdf

[94] http://www.ehea.info/Upload/Task_Force_for_Future_Monitoring_of_Values_Final_Report.pdf

[95] http://www.ehea.info/Upload/FVworking%20group.pdf

[96] http://www.ehea.info/Upload/Task_Force_for_Future_Monitoring_of_Values_Final_Report.pdf

[97] Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG). (2015). Brussels, Belgium. https://www.enqa.eu/wp-content/uploads/2015/11/ESG_2015.pdf, page 11.

[98] A Craciun, Daniela, Matei, Liviu and Popović, Milica. 2021. Study on the Relationship Between the Fundamental Values of Higher Education and Quality Assurance, Council of Europe and OSUN Global Observatory on Academic Freedom. https://elkana.ceu.edu/sites/elkana.ceu.edu/files/attachment/basicpage/391/coestudyfinal.pdf

(Bosnia and Herzegovina, France, Switzerland, and Ukraine) where the value of academic freedom and integrity is directly referenced in national regulatory frameworks on quality assurance. Among 27 surveyed agencies, 15 (operating in 29 countries) included academic freedom and integrity in agency-level regulatory frameworks. However, none of the agencies defined academic freedom in detail, measured it, or applied any sanction if academic freedom was problematic.

The issue of embedding fundamental values in ESG remains an open question. Alternatively, a new unit, the EHEA Observatory, which will be set up in the future, could carry out studies on fundamental values. The idea of establishing a new observatory for EHEA is currently under consideration.

5.3. Magna Charta Observatory / Living values project

The Living Values project is part of the Observatory of the Magna Charta Universitatum. The Observatory is an organisation based at the University of Bologna which aims to monitor and enforce the principles of the Magna Charta. The Living Values project[99] is an organisational development and self-reflection tool that helps universities to assess the extent to which the principles of the MCU – institutional autonomy, academic freedom, the concomitant responsibility to society, and other mission-specific values – are present in their institutions and establish institution-specific development proposals and action plans. Institutions participate in the project on an entirely voluntary basis. The Observatory only provides guidelines, recommendations, and analytical methodologies, which institutions can use to carry out the self-evaluation and development process themselves.

During the implementation of the project, the self-assessment and the development of plans are carried out by the institutions themselves, according to local particularities, in their own schedule, and they can also determine the frequency of the review.

In 2018, 10 pilot institutions participated in the process (their reports are available on the Observatory's website), while in 2019, 11 institutions participated.

[99] https://www.magna-charta.org/activities-and-projects/living-values

6. Summary and critical assessment of existing methods and processes to measure and evaluate academic freedom

In this chapter, we summarise and evaluate the existing assessment methods and procedures related to academic freedom. In the first part of the chapter, we define the evaluation criteria and, to do so, we review the dilemmas and problems that may arise in the monitoring of academic freedom. This is followed by a discussion of the assessment methods and procedures.

Assessment methods tend to be summative in nature. They often produce results along which countries can be compared with each other. Who and how the results are used is usually not part of the method. **Assessment procedures** tend to be formative in nature. Their aim is not primarily to compare or benchmark countries but to improve or understand the situation per se. Who and how the results of assessments are used is an integral part of the process. While the methods are more concerned with what is evaluated and how data is collected and presented, the procedures are more concerned with the process of discussing the assessment results.

In each method and procedure, we first summarise how data are collected, presented and processed and what aspect of academic freedom is monitored. This is followed by the illustrative presentation of some of the results for EU Member States. Finally, a critical evaluation of the method or procedure is presented in which we discuss the strengths and weaknesses of the method/procedure.

Although from 2020, the UK is no longer a member of the EU, some surveys were conducted before Brexit. For consistency, we have tried to include UK results in all of the illustrative results.

6.1. Evaluation criteria for academic freedom monitoring procedures

Developing a comprehensive system for monitoring academic freedom at the national level across the EU Member States poses several methodological challenges and difficulties.

6.1.1. Variation of academic freedom within countries

The extent of academic freedom can vary within countries. In federal states, academic freedom may vary at the level of regions or member states. In states with a non-unified higher education system, different sectors (universities, universities of applied sciences) can be regulated differently.

There may also be differences between private and public institutions. Legislation often gives different powers to the governing bodies and maintainers of private institutions than to the state in the case of public institutions. Consequently, the conditions of academic freedom (e.g., institutional autonomy, employment security, the possibility of self-government) may differ substantially. The conception of the role of the state may also impact on the prevalence of institutional autonomy and academic freedom. For example, the goal and role of the state may be to assure economically defendable management (facilitator), to control the strategic development of institutions and to link them to national political agendas (principal) or to minimise executive governance and stimulate strategic decisions (patron). Each of these leads to different state-institution governance arrangements.[100]

[100] Maassen, Peter (2020): Perspectives on institutional autonomy in a European higher education context. In: Sjur Bergan, Tony Gallagher and Ira Harkavy (eds): Academic Freedom, Institutional Autonomy and the Future of Democracy. Higher Education Series No. 24. Council of Europe, p. 85-101. https://rm.coe.int/prems-025620-eng-2508-higher-education-series-no-24/1680a19fdf

There may also be differences between disciplines: the actors who want to influence academic freedom may differ from discipline to discipline. For example, academic freedom may be affected by the dependence on funding. Dependencies could be used to influence research decisions. While the social sciences and humanities typically depend heavily on public funding, funding from the business sector can be significant in the natural sciences.

Significant difference in academic freedom between institutions may be present as well, especially where regulation allows much freedom for institution-level decision-making. For example, a study[101] has shown that academic freedom is higher at universities with better positions in international rankings (but the direction of causality is not apparent).

A good monitoring system explicates the aggregation level at which academic freedom is described and informs that academic freedom at different levels may be volatile.

6.1.2. Differences between de jure and de facto academic freedom

The de jure academic freedom (reflected in legislative protection) and the de facto academic freedom (reflected in reality) can differ significantly. For example, while legal protection of academic freedom was ranked among the lowest in Estonia, Malta, Slovenia, Sweden or Denmark in a comparative study[102], de facto academic freedom in these countries was ranked among the highest in the Academic Freedom Index. Of course, an inverse relationship is also possible, i.e., even with excellent legal protection, the de facto situation of academic freedom can be poor. This may be particularly the case in countries that only want to comply formally with perceived expectations.

There are of course a few problems with both the legal protection measurement and the Academic Freedom Index (more on these later), but the example reflects the difference between the de jure and de facto. A good monitoring system can capture the difference between the two domains of academic freedom.

6.1.3. Different sources and methods of repression of academic freedom

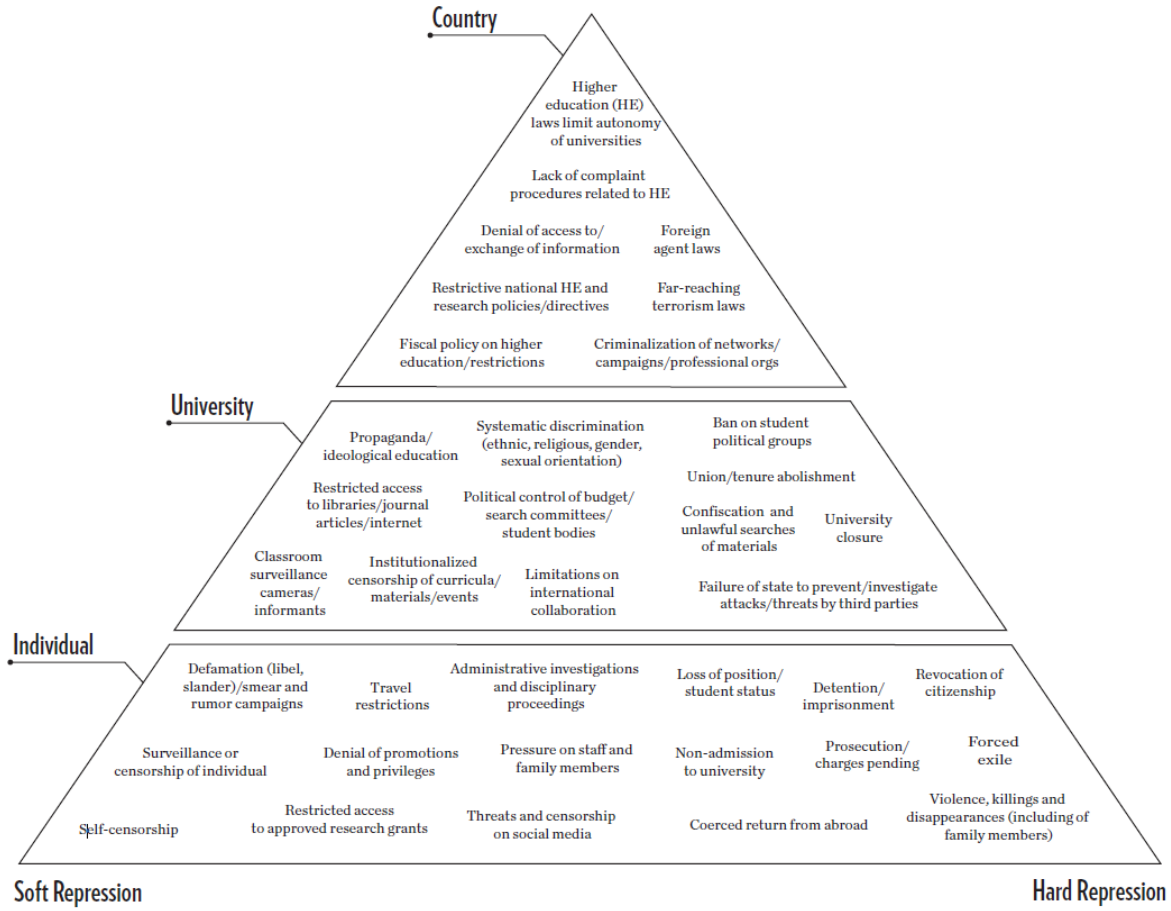
The teaching and research decisions of an academic or academic community may be distorted by many actors, who may thus pose a threat to academic freedom.

Governments, which want to exert pressure to advance their political interests, pose one of the main constraints on academic freedom. Governments can intervene in many ways, from regulation to funding instruments to changes in university governance. The following figure (Figure 2) shows how governments can limit academic freedom. The selectivity of the instruments may differ: some instruments apply to all (country level), others to specific institutions or individuals. We can also distinguish between violent, direct repressive instruments (hard repression) and more subtle (softer) instruments (soft repression).

[101] Karran, T., Mallinson, L. (2019) Academic Freedom and World-Class Universities: A Virtuous Circle?. High Educ Policy 32, 397–417 (2019). https://doi.org/10.1057/s41307-018-0087-7

[102] Beiter, Klaus D. - Karran, Terence – Appiagyei-Atua, Kwadwo (2016): Academic Freedom and Its Protection in the Law of European States: Measuring an International Human Right. European Journal of Comparative Law and Governance, 3(3), 2016, 254-345). https://doi.org/10.1163/22134514-00303001

Figure 2 – Means of Political Repression in the University Sector



Source: Hoffmann, F. – Kinzelback, K. (2018): Forbidden Knowledge. Global Public Policy Institute. p.10

Companies pursue their market interests and can exert their influence mainly through the funding system (e.g. commissioned research), government lobbying, or an institution's decision-making system.

Different ideological groups of public opinion, foreign states included, may want to impose their will on institutions and researchers. Nowadays, the most common form of this is social media pressure.

Academic freedom can also be limited from within by the academic sector itself. Restrictions are usually implemented through the internal governance system. For example, elected or appointed decision-makers may restrict an individual's academic freedom based on their remits or through bureaucratic means. In other cases, the restriction results from rivalry between different academic schools.[103] In all cases, external observers often struggle to distinguish between justified and unjustified restrictions. Corruption and cronyism in allocating resources and (permanent) positions can also significantly weaken academic freedom and integrity.

The seriousness of the threat to academic freedom that different actors represent, varies between countries. While the state is the main threat in autocracies and dictatorships because of its

[103] See, for example, Delborne, J. A. (2016). 'Suppression and Dissent in Science.' In Handbook of Academic Integrity, edited by T. Bretag, 943-56. Singapore: Springer.

predominance in decision-making and funding, in liberal democracies, the role of the public and business can play a significant role.

Academic freedom can be restricted in many ways. Some of these are based on overt repression (hard repression), while others use more indirect means to enforce the desired behaviour and compliance (soft/smart repression). The latter often seeks to reinforce self-censorship, whereby researchers exclude alternatives or internalise certain choices for fear of perceived retaliation against them, colleagues or family.[104] The lack of perceived resistance has a chilling effect on other researchers leading to seemingly free higher education.

While hard repression is, in principle, easier to observe and identify, the self-censorship induced by soft repression is more difficult to grasp because respondents are either unaware of the self-censorship or do not acknowledge it because of the fear of retaliation. For example, when university lecturers become victims of a smear campaign because of their research topic, it chills other academics as they are more likely to remain silent even if they believe they should speak out. Detecting self-censorship and the reason for the silence is a real methodological challenge.

A good monitoring system can capture not only the threats posed by the state but also threats from other actors. Besides, the monitoring system should be sensitive enough to detect hard repression as well as various forms of soft repression. This is particularly important if the monitoring system focuses on the EU Member States, where open and systemic state violations of academic freedom are rare (based on the available data). As a result, monitoring systems calibrated to identify hard repressions cannot capture differences between Member States, such as different rates of self-censorship or differences in the restrictive role of public opinion.

6.1.4. Criteria for the assessment of monitoring methods and procedures

The forementioned challenges and caveats, as well as other considerations taken into account, we have developed the following criteria for assessing the most important existing assessment methods and procedures for academic freedom:

a. **Type of assessment:** Who carries out the assessment? Is the process based on self-assessment, expert assessment, a summary of individual opinions or some combination of these?
b. **Academic Freedom concept:** How is academic freedom understood in the given method or procedure? Does the evaluation process assess academic freedom holistically, or does it focus on essential and supporting conditions one by one? Which elements in the onion model of academic freedom does the method or procedure consider, and which does it ignore?
c. **Level of analysis:** At what level is academic freedom analysed (e.g., national, institutional, individual, disciplinary)? Is it possible to aggregate data to higher levels or broken down to lower levels?
d. **De facto/de jure:** Does the assessment focus on capturing the de facto or de jure situation?
e. **Validity**: To what extent does the procedure give a full and accurate picture of the de facto/de jure situation of academic freedom (or the studied concept)? Does the method have an obvious blind spot? How sensitive is the method or the procedure, that is, to what extent is it able to capture the more covert, subtle forms of restrictions on academic freedom? Some procedures focus only on cases of hard repressions (e.g. killing, expulsion), while others can also capture the more covert, sophisticated forms of academic freedom

[104] Aktas, Vezir – Nilsson, Marco –Borell, Klas (2019) Social scientists under threat: Resistance and self-censorship in Turkish academia, British Journal of Educational Studies, 67:2, 169-186, DOI: 10.1080/00071005.2018.1502872;

Bar-Tal, Daniel – Nets-Zehngut, Rafi –Sharvit, Keren (eds)(2017): Self-Censorship in Contexts of Conflict. Theory and Research. Springer.

restriction. Can the process identify constraints from the business, public, and academic sectors?

f. **Reliability**: If we were to repeat the procedure, would it likely give the same result? To what extent does the procedure depend on the selection of specific participants, individual perception, or bias, for example, an expert's assessment? Are there any inherent limitations to the process under consideration that amplify the views of some stakeholders while marginalising those of others? How well does the procedure reflect different stakeholders' views or include multiple data sources?
g. **Integrity**: How much room is there in the procedure for some actors to influence the outcome of the evaluation as a whole or the responses of other actors to suit their own interests? This is closely linked to the extent to which the identity of the participants in the assessment can be known, to what extent participants can be the target of pressure or influence, and to what extent this can lead to self-censorship. For example, can authoritarian or repressive states intimidate respondents? Also, to what extent can deliberately manipulated responses influence the results yielded by the procedure or method? For example, is it possible to paint a distorted picture of the state of academic freedom in a country by providing false responses in a mass scale or selecting biased experts?
h. **Resource requirements**: How much specific expertise is needed to run the procedure? How many stakeholders need to be involved to get a valid result? How much time and funding are needed to carry out the procedure?
i. **Comparability**: If the same procedure is applied in two countries, does the procedure permit a straightforward comparison of the results? Some procedures may have the explicit aim of determining the academic freedom performance of a country based on historical data and comparing this with the performance of other countries. The results can be used to identify good or poor performers and make related allocation decisions (rewards, penalties). In other procedures, the aim is not to make comparisons but to describe and evaluate the country's practices without comparison, highlighting good practices, opportunities for improvement, and future potential. These procedures focus more on development.
j. **Frequency of data collection**: How often are data collected and analysed? How often is the method or procedure implemented?

In the following section, we provide an overview of the existing methods and procedures for assessing academic freedom.

The criterion for selecting methods and procedures was whether the method or procedure explicitly focuses on academic freedom or one of its elements. Even so, it was not possible to examine all existing methods. For example, the assessment of the Global Coalition to Protect Education from Attack (GCPEA)[105] will not be presented. Besides, it would have been possible to examine other existing tools that use relevant methodologies and could thus serve as a model for academic freedom monitoring procedures (such as the World Justice Project[106]). It would also be important to examine related areas, such as academic integrity procedures[107] or policy practices on

[105] https://protectingeducation.org/

[106] https://worldjusticeproject.org/

[107] See, for example, Delborne, J. A. (2016). 'Suppression and Dissent in Science.' In Handbook of Academic Integrity, edited by T. Bretag, 943-56. Singapore: Springer.

whistleblowing[108]. They could also provide valuable inputs to understand and develop assessment practices for academic freedom.

6.2. Assessment methods

6.2.1. Comparative analysis of the regulatory environment

Terence Karran and his colleagues have conducted several studies comparing the legal conditions for academic freedom in different countries. In their most recent research, they compared EU Member States[109,110] while in another research, they compared African countries.[111] Therefore, the research is a de jure comparison of academic freedom (based on the legal situation in 2014). In the European comparison, the authors looked at five dimensions derived from the 1997 UNESCO Recommendation on teaching personnel. 37 indicators were used to capture most of the dimensions. The following five dimensions were examined:

a. the protection of academic freedom for teaching and research in higher education legislation (1 indicator)
b. the legal provision of institutional autonomy (10 indicators)
c. the legal provision of self-governance (11 indicators),
d. the legal protection of academic tenure (5 indicators)
e. adherence to international agreements and constitutional protection of academic freedom (10 indicators).

Most dimensions are captured by several indicators, which ensures a multifaceted and sensitive analysis. The only exception is the dimension of the protection of academic freedom for teaching and research, which is assessed comprehensively with a single indicator on a five-point scale. Its refinement may be worth exploring in the future.

The analysis was conducted by experts who examined laws and regulatory documents. The assessment of a country's performance on a given indicator was based on specific coding guidelines. These guidelines increase the objectivity of the results, although they cannot completely eliminate bias. Parallel coding by several researchers could further reduce bias and increase reliability and validity.

Based on these indicator scores, the authors compile an academic freedom ranking, in which each dimension is weighted 20%. The score of the dimensions was calculated from the score of the indicators that belong to them. The weight of indicators within a dimension is arbitrary.

The results of the EU countries surveyed are shown in the table below. The table shows the scores achieved in each dimension on a scale of 0-20, where 0 meant that there was no reference to academic freedom in the regulations, 5-10 meant that the concept appeared but without sufficient detail, and 15-20 meant that there was a more detailed interpretation.

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[108] See the EU's 'whistleblowing directives' Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law. https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1937

[109] Beiter, Klaus D. - Karran, Terence – Appiagyei-Atua, Kwadwo (2016): Academic Freedom and Its Protection in the Law of European States: Measuring an International Human Right. European Journal of Comparative Law and Governance, 3(3), 2016, 254-345

[110] Karran, Terence – Beiter, Klaus D. – Appiagyei-Atua, Kwadwo (2017) Measuring academic freedom in Europe: a criterion referenced approach, Policy Reviews in Higher Education, 1(2):209-239, DOI: 10.1080/23322969.2017.1307093

[111] Appiagyei-Atua, Kwadwo – Beiter, Klaus D. – Karran, Terence (2016) A Review of Academic Freedom in Africa through the Prism of the UNESCO's 1997 Recommendation. Journal of Higher Education in Africa. 14(1):85-117

Table 3– The legal protection of academic freedom in EU countries in 2015

Country	Total	Academic freedom in legislation	Institutional autonomy in legislation	Self-governance in legislation	Job security	Constitutional and international agreements
Croatia	69	20	13	14	4,5	17,5
Spain	66,5	15	8,5	12	11	20
Bulgaria	65,5	15	9	14,5	9,5	17,5
Germany (Mean: Bavaria and North Rhine-Westphalia)	64,5	17,5	9,25	12,25	8	17,5
Austria	63,5	20	12	9	5	17,5
France	63,0	20	7	6,5	15,5	14
Portugal	61	10	9	11,5	11	20
Slovakia	60,5	20	8,5	12,5	2	18
Latvia	60	20	10	10,5	3	16,5
Lithuania	59,5	20	11	6	5	17,5
Italy	57,5	10	9	8,0	12	19
Greece	55,5	5	4,5	10,5	20	15,5
Finland	55	15	15	3	3	19
Poland	54,5	10	9,5	12,5	5	17,5
Romania	53,5	15	8	12,5	6	12,5
Cyprus	53	10	8	12,5	10	12,5
Ireland	52,5	15	12,5	3	10,5	11,5
Slovenia	52,5	5	8,5	11	10,5	17,5
Czech Republic	51,5	15	8	11	2	15,5
Belgium (Mean: Walloon and Flanders)	49,25	10	8,5	7,5	9,25	14
Luxemburg	47,5	15	9	6	3,5	14
Netherlands	44	10	9	5,5	3,5	12,5
Sweden	39,5	5	6,5	3	8,5	16,5
Denmark	38,5	5	9	6,5	5,5	12,5
Hungary	36	5	2,5	9	8	11,5
Malta	36	0	10,5	6	8,5	11
United Kingdom	35	0,5	14	0	5,5	11
Estonia	34	0	10,5	4,5	1,5	17,5
Mean	**52,8**	**11,9**	**9,3**	**8,6**	**7,3**	**15,6**
St. Deviation	**10,5**	**6,3**	**2,6**	**3,9**	**4,3**	**2,9**

Source: Karran et al (2017): 229

Overall, analysing the legal environment of academic freedom is a useful analytical tool because provisions can serve as a reference point when academic freedom is infringed upon. The analysis of the legal situation is important in the perspective that it is worth comparing the de facto situation with the legal guarantees. The strength of this monitoring method is that it builds directly on the elements of academic freedom outlined in the UNESCO Recommendation on teaching personnel. In addition to freedom of teaching and research, it also examines the presence of self-governance, institutional autonomy and employment security. Dissemination, however, does not appear as a separate element but only as part of the freedom of education and research dimension.

Analysing the legislative environment is easier today than it was 10-15 years ago, thanks to high-quality translation software, the improved online availability of regulations and international

collection and comparison sites.[112] The objectivity of comparing legal texts can be enhanced easily and cost-effectively with appropriate coding guidelines and the involvement of multiple coders leading to relatively low resource requirements. The transparency of the evaluation criteria and the publication of individual indicator results also increase the objectivity of the comparison. Since it is an analysis of legal texts, the findings are less susceptible to manipulation, i.e., the procedure is reliable and relatively immune to manipulation.

There are also significant limitations to the analysis of the legislative environment.[113]

On the one hand, the de jure and the de facto situation may differ significantly. The analysis of the regulatory environment does not allow for a good tracking of changes or deterioration in the situation of academic freedom because the method does not focus on the de facto reality, and therefore it lacks sensitivity.

On the other hand, the complexity of analysing the legislative environment and the expertise required increases rapidly with the depth of the analysis. Key legislation (Constitution, Higher Education Act) is relatively easy to review. However, academic freedom is also influenced by other or operational regulations (e.g., implementation regulations, funding regulations, public procurement regulations), and there may also be differences between regulations in different sectors, regions, and types of institutions. Furthermore, to understand the role and effects of a certain legal regulation, it is important to know the broader context of the legislation (legal culture, the governing authority's relationship to democracy and the rule of law, etc.) thoroughly. Therefore, more detailed and precise analysis requires considerable country-specific knowledge of legislation, where comparability is less assured.

Table 4– The Assessment of legal protection analysis by Karran et al. 2017

Aspect	Assessment
Assessment type	Expert assessment.
Academic freedom concept	Focus on essential elements (except for dissemination) and supportive elements (self-governance, institutional autonomy, employment security).
Level of analysis	Country-level; analysis of sub-national level is not possible.
De facto/De jure	De jure.
Validity	Indicators capture the regulatory aspects of academic freedom in a wide-ranging and sensitive way, key legislation is examined in depth, but operational regulations that could also influence results are not reviewed.
Reliability	The process of scoring and selecting experts is less transparent, and the number of experts involved is limited.
Integrity	Integrity is based on the selection of experts.
Resource requirements	A small number of experts can do a basic analysis, but a more in-depth analysis requires more experts and resources.
Comparability	Comparable.

[112] See, for example, https://comparativeconstitutionsproject.org/

[113] This is also discussed by Spannagel. See: Spannagel, Janika (2020): The Perks and Hazards of Data Sources on Academic Freedom: An Inventory. In: Katrin Kinzelbach (ed): Researching Academic Freedom. Guidelines and Sample Case Studies. FAU Studien zu Menschenrechten 5. FAU University Press. https://www.gppi.net/media/Kinzelbach_2020_Researching_Academic_Freedom-Book.pdf

Frequency of data collection	Ad-hoc, last data collection was in 2014-2015.

6.2.2. Academic Freedom Index (AFI)

The Academic Freedom Index provides a concise summary of each country's de facto situation of academic freedom. The index was developed by researchers at FAU Erlangen-Nuremberg, the Varieties of Democracy Institute (V-Dem) at the University of Gothenburg and the Global Public Policy Institute (GPPi) and was first published in 2020 as part of the V-Dem dataset.[114]

The AFI value for each country for a given year is determined on the basis of expert assessments. For the 2021 AFI, more than 2000 country experts were involved[115], who assessed the respective country's situation for each year according to the following five indicators[116,117]:

a. **Freedom to Research and Teach** focuses on how free scientists are to develop and pursue their own research and teaching agendas without interference. The answer options may reflect on the frequency and disciplinary differences of restrictions and the incentives for self-censorship.
b. **Freedom of Academic Exchange and Dissemination** focuses on to what extent scholars are free to exchange and communicate research ideas and findings. The indicator deliberately merges communication to the academic community and communication to the public, in order not to favour regimes where only one is restricted.[118] The response options also reflect the frequency and disciplinary differences of restrictions and the incentives for self-censorship.
c. **Institutional Autonomy** examines how much autonomy institutions have in practice and how frequent/significant the influence of external, non-academic actors on decision-making is.
d. **Campus Integrity** examines how free campuses are from politically motivated surveillance or security infringements. How often are there surveillance and intimidation, including violence or closures?
e. **Freedom of Academic and Cultural Expression** examines whether academic freedom and freedom of cultural expression are related to political issues. Response options reflect the severity and frequency of censorship and sanctions from governments.

Each indicator can assume values between 0 and 4, which should be provided for each country-year from 1900 onwards (or from the year there are universities in the country). In the coding guide, each indicator value has a narrative description. The Academic Freedom Index (AFI) has a value between 0-1. In all cases, the higher value means higher freedom.

The following table shows the values of the Academic Freedom Index in 2011 and 2021, which can be used to examine the trend in academic freedom. It can be seen, for example, that there has been a significant deterioration in Hungary, Poland and the UK. The table also shows the values of all five indicators in 2021. It can be seen that, among the indicators, the values for institutional autonomy

[114] https://www.v-dem.net/

[115] 1810 experts participated in producing AFi 2019. See: Kinzelbach, Katrin - Saliba, Ilyas - Spannagel, Janika - Quinn, Robert (2020): Free Universities. Putting the Academic Freedom Index Into Action. GPPi and Scholars at Risk Network

[116] Spannagel, J. – Kinzelbach, K. (2022): The Academic Freedom Index and Its indicators: Introduction to new global time-series V-Dem data Quality & Quantity https://doi.org/10.1007/s11135-022-01544-0

[117] Kinzelbach, Katrin - Saliba, Ilyas - Spannagel, Janika - Quinn, Robert (2020): Free Universities. Putting the Academic Freedom Index Into Action. GPPi and Scholars at Risk Network

[118] Spannagel – Kinzelbach (2022): The Academic Freedom Index and Its indicators: Introduction to new global time-series V-Dem data Quality & Quantity https://doi.org/10.1007/s11135-022-01544-0

are typically lower than for the other indicators. Finally, the number of coders column shows the number of country experts whose responses are used to calculate indicators and the academic freedom index.

Table 5– The Academic Freedom Index for EU Member States

Country Name	2011	2021						Number of coders (2021)	Constitutional Protection (2021)
	AFI	AFI	Freedom to Research & Teach	Freedom of Academic Exchange	Institutional autonomy	Campus Integrity	Freedom of Academic & Cultural Expression		
Austria	0,98	0,94	3,62	3,71	3,36	3,78	3,63	4	yes
Belgium	0,97	0,96	3,81	3,89	3,59	3,59	3,01	7	yes
Bulgaria	0,92	0,86	3,57	3,28	3,25	3,41	3,32	9	yes
Croatia	0,90	0,87	3,27	3,34	3,25	3,81	2,67	6-7	yes
Cyprus	0,95	0,93	3,57	3,76	3,57	3,40	3,29	4	no
Czech Rep.	0,95	0,94	3,62	3,60	3,63	3,92	3,53	8	yes
Denmark	0,95	0,91	3,47	3,54	2,74	3,89	3,88	6	no
Estonia	0,97	0,96	3,54	3,86	3,43	3,92	2,78	6	yes
Finland	0,95	0,94	3,56	3,87	2,39	3,90	2,93	5	yes
France	0,88	0,88	3,44	3,32	2,59	3,48	2,90	4	no
Germany	0,97	0,97	3,89	3,92	3,48	3,81	3,49	5	yes
Greece	0,87	0,78	3,10	3,18	3,01	2,68	3,69	5	yes
Hungary	0,60	0,38	1,65	2,45	1,19	2,62	2,81	7	yes
Ireland	0,94	0,94	3,69	3,67	3,33	3,69	3,51	4	no
Italy	0,97	0,97	3,83	3,92	3,62	3,90	3,32	5	yes
Latvia	0,96	0,97	3,85	3,88	3,14	3,89	3,61	7	yes
Lithuania	0,96	0,92	3,65	3,78	2,95	3,70	3,50	6	yes
Luxembourg	0,96	0,96	3,78	3,81	2,94	3,93	3,32	6	no
Malta	0,94	0,93	3,80	3,80	2,43	3,83	3,03	4-5	no
Netherlands	0,92	0,86	3,01	3,44	3,07	3,77	3,67	6-7	other
Poland	0,98	0,74	3,16	3,03	2,49	3,36	3,35	8	yes
Portugal	0,98	0,92	3,46	3,73	3,05	3,76	3,17	5	yes
Romania	0,92	0,89	3,45	3,70	2,79	3,59	3,12	8	yes
Slovakia	0,96	0,97	3,82	3,88	3,35	3,80	3,65	7	yes
Slovenia	0,96	0,91	3,27	3,88	2,90	3,85	3,82	7	yes
Spain	0,96	0,94	3,81	3,82	3,06	3,45	3,23	6	yes
Sweden	0,96	0,96	3,69	3,91	3,05	3,81	3,29	7	yes
UK	0,94	0,82	3,43	3,08	2,72	3,14	3,60	6-7	no

Source: V-Dem [Country–Year/Country–Date] Dataset v12[119]

[119] Used indicators: For the number of coders, we used the _nr variables for each indicator because the number of coders might differ in each indicator. For indicator values, we used v2cafres_osp, v2cafexch_osp, v2cainsaut_osp, v2casurv_osp and v2cacritic_osp variables. The variable v2caprotac describes the factual data of constitutional protection. AFI values are derived from v2xca_academ for each respective year.

In addition to the expert assessments, the V-Dem database also contains additional factual information to help understand the de jure situation of academic freedom in each country. These include the constitutional protection of academic freedom and whether the International Covenant on Economic, Social and Cultural Rights (ICESCR) is ratified.[120]

The AFI covers the essential components of academic freedom: freedom of teaching, freedom of research and freedom of dissemination. It also includes one supportive element of academic freedom, institutional autonomy, which is understood as the distance from (lack of) external interferences. Reflections on self-governance and job security are absent, and freedom to learn is not reflected in AFI either. However, AFI contains the campus integrity indicator, a unique element that could also help to represent the possibility of self-censorship.

The strength of the AFI is that it provides comparable data over time and on a global scale. A difficulty is that the assessment of country experts for a given year may differ depending on their biases and conceptualisations. How these differences are handled when aggregating opinions is, therefore, a key issue for the validity, reliability and comparability of the AFI. There are several means to increase these parameters.[121, 122]

a. Selection of experts: according to the V-Dem protocol, experts are screened in advance based on their competence, potential bias, country knowledge and willingness to participate. In other words, not all experts who apply will be respondents. Strong political or ideological affiliation is a disqualifying factor. Two-thirds of current respondents work in academia. Experts receive a modest financial reward for their work.
b. Response aggregation: where several country experts' assessments are required, the aggregation of assessments is done transparently using a Bayesian measurement model that can handle respondent variability due to biases, diverging coding behaviours and different levels of confidence. Many other complementary techniques are also used, such as bridging and lateral coding, where experts evaluate the academic freedom of a country other than their main country of expertise, which allows controlling the assessment of other (often native) experts and identifying the extent of possible systemic bias. The experts' post-survey questionnaire also helps to assess their possible bias.
c. A minimum number of expert opinions is expected: more than 2000 expert opinions were collected for the 2021 AFI. AFI for a given country for a given year is published if at least three indicator-values are available. Indicators for EU countries are usually based on 3-8 expert opinions per country. The aim is to further increase the number of country experts involved in the coming years.
d. High level of data transparency, thus verifiability and contestability of results: responses are not only available in aggregated form but also at the individual level on the V-Dem website. In addition, the procedure and the number of respondents are also known.

These procedures increase the reliability and validity of AFI[123], but they cannot completely eliminate the scale inconsistencies that arise from the different understanding, cultural background and bias

[120] The constitutional protection of academic freedom cannot necessarily be coded on a yes/no answer basis, as it is in the V-Dem database. See the comparative analysis of the regulatory system section in this overview.

[121] Coppedge, M. – Gerring, J. – Knutsen, C. H. – Krusell, J. – Medzihorsky, J. – Pernes, J. – Skaaning, S.-E. – Stepanova, N. – Teorell, J. – Tzelgov, E. – Wilson, S. L. – Lindberg, S. I. (2019). The Methodology of 'Varieties of Democracy' (V-Dem). Bulletin of Sociological Methodology, 143(1), 107–133. https://doi.org/10.1177/0759106319854989

[122] Spannagel, J. – Kinzelbach, K. (2022): The Academic Freedom Index and Its indicators: Introduction to new global time-series V-Dem data Quality & Quantity https://doi.org/10.1007/s11135-022-01544-0

[123] McMann et al. analysed this phenomenon on corruption data from the V-Dem database and found that there seem to be minimal systematic biases that affect country assessments. See McMann, Kelly – Pemstein, Daniel – Seim, Brigitte

of country experts. It is important to note that the V-Dem protocol ensures the protection of the identity of experts. The list of country experts is not public, which reduces the possibility of external influence on respondents. Prior screening of experts also limits the possibility of easy data manipulation (e.g., by delegating large numbers of biased experts).[124] From another perspective, however, the confidentiality of the experts' list makes it difficult to ascertain how well the selection criteria for country experts are applied, for example, how unbiased the experts are or how balanced the list of country experts is.

The AFI has the following challenges and shortcomings.

First, the AFI conflates the essential elements of academic freedom with the supportive elements. Including institutional autonomy in the index means that AFI represents both the violation of essential elements of academic freedom and the lack of existence of supporting elements (guarantees). The essential elements of academic freedom can be asserted without guarantees, but they are much easier to violate. In other words, a lower AFI score does not necessarily mean that teaching, research and dissemination *are* more often violated, but that they *may be* more often violated (due to the absence of safeguards, e.g., low institutional autonomy). In extreme cases, even a low level of autonomy can be associated with high levels of academic freedom (e.g., government making many institutional-level decisions but respecting academic freedom). But the reverse is also true. High levels of institutional autonomy can be associated with low levels of academic freedom (e.g., empowered management restricting the freedom of academics).[125] Looking at the indicators that make up AFI, we see that EU countries typically score lower on the institutional autonomy indicator than on any other indicators. But does this automatically mean that academic freedom for academics is more often violated in these countries? Not necessarily.

Second, the fact that the values of the indicators and the AFI for a given year may change in the different versions of the V-Dem database can lead to confusion. When new country experts join, they can assess indicators for all previous years. Country experts also can reassess a given year in the next round of V-Dem surveys. The aggregation of the individual assessments results in different values of the indicators and the index already published in the earlier versions of V-Dem. In other words, different versions of V-Dem databases may have different AFI values for the same country and the same year. For example, Hungary's AFI value for 2019 in the v10 database was 0,662 and in the v12 database was 0,459, while the number of country experts increased from 3 to 6.

Changing AFI values may mean that over time we have a more accurate picture of the state of academic freedom, but also the danger that country experts constantly reinterpret the past in the light of their perception of the present (recency bias). And the lay public may not be aware that different versions of the V-Dem database may have different AFI values for a country in a given year, especially as this is not the case for other higher education rankings and indicators. This means that all publications should emphasise on which version of V-Dem the data are based and that it is not comparable with data from other versions.

– Teorell, Jan – Lindberg, Staffan (2022): Assessing Data Quality: An Approach and An Application. Political Analysis 30(3):426-449. https://doi.org/10.1017/pan.2021.27

[124] Coppedge, Michael, John Gerring, Carl Henrik Knutsen, Staffan I. Lindberg, Jan Teorell, Kyle L. Marquardt, Juraj Medzihorsky, Daniel Pemstein, Nazifa Alizada, Lisa Gastaldi, Garry Hindle, Josefine Pernes, Johannes von Römer, Eitan Tzelgov, Yi-ting Wang, and Steven Wilson. 2022. 'V-Dem Methodology v12'. Varieties of Democracy (V-Dem) Project. https://v-dem.net/documents/2/methodologyv12.pdf

[125] Analysing the correlation between indexes, Spannagel and Kinzelbach found that institutional autonomy and freedom of teaching and research are closely associated at very low levels, while in the case of a high level of teaching and research, freedom coexists with middle-range levels of institutional autonomy. See Spannagel – Kinzelbach (2022): The Academic Freedom Index and Its indicators: Introduction to new global time-series V-Dem data Quality & Quantity https://doi.org/10.1007/s11135-022-01544-0

Third, the AFI is successful in compressing information, but the users' lack of knowledge of the country context and methodological limitations can easily lead to misinterpretation and misleading conclusions – similar to higher education rankings. While it is possible to look at changes in the indicators that make up the index and thus analyse which trends are behind changing AFI scores, this is not enough to understand the changes and the context of a country. Very different events may be behind similar index and indicator scores. The authors suggest that the AFI reports should be complemented by case studies.

Fourth, AFI is currently not suitable to show within-country differences (i.e., for a deeper examination of a sector or region) because country experts assess the academic freedom of a country as a whole, even if there are significant differences within the country by sector, discipline, ownership structure, or other parameters.

Fifth, producing indices such as the AFI requires considerable resources to recruit and coordinate a large number of country experts and provide the necessary statistical expert knowledge and IT infrastructure.

Table 6– The Assessment of the Academic Freedom Index

Aspect	Assessment
Assessment type	Expert assessment.
Academic freedom concept	Essential elements are present. Among supporting elements, only institutional autonomy is present, employment security and self-governance are not. Campus integrity is an additional aspect.
Level of analysis	Country; assessing within-country differences is not possible.
De facto/De jure	De facto, but there are indicators regarding the de jure situation as well.
Validity	The AFI is based on a structured aggregation of the opinions of many experts, which can lead to a better result than the opinion of a single expert (case study) or many lay people (survey). Results are not supported by qualitative explanations making checking validity difficult. AFI mixes the essential elements with safeguards; thus, low AFI value does not necessarily mean the infringement of academic freedom. More covert forms of violations may appear in the results, but only in a less transparent way, through the perception of country experts.
Reliability	There are several mechanisms to handle respondent variability due to biases and diverging coding behaviours (post-survey questionnaires, bridging and lateral coding, vignettes) All answers are available for the public on an individual level making all calculations highly transparent and verifiable.
Integrity	The involvement of country experts is controlled but less transparent to the public. Country experts' anonymity is protected,
Resource requirements	The infrastructure and the controlled involvement of many country experts make resource requirements high.
Comparability	Yes.
Frequency of data collection	Annually.

6.2.3. University Autonomy Scorecard of the European University Association

The EUA Autonomy Scorecard does not assess the level of academic freedom but the degree of institutional autonomy. In the 'onion' model of academic freedom, institutional autonomy is a supportive and not an essential element of academic freedom. The EUA Autonomy Scorecard also covers 'staffing autonomy', which is identical to employment security in the onion model, although staffing autonomy refers only to senior academics and administrators. The Scorecard examines the de jure relationship between universities and the state through 38 indicators, measuring the degree of freedom of universities to make decisions in four areas:

1) Organisational autonomy: organisational structure and internal governance, selection of senior management,
2) Financial Autonomy: funding and asset management,
3) Staffing autonomy: freedom in HR policy, such as remuneration, hiring, dismissal of senior academics and administrators and
4) Academic Autonomy: autonomy regarding academic affairs such as program and research profile, quality assurance, and student admission.

The EUA Scorecard interprets institutional autonomy as 'distance from the state'. The Scorecard does not include information or indicator on the extent of self-governance, i.e., it is less visible how much say the academic community has in the decisions delegated to the institution.

The EUA published three reports in the last decades: in 2009, 2011 and 2017, and the results of the latest surveys were also available on a website.[126] The latest survey gives an overview of institutional autonomy in 27 European higher education systems (e.g., countries or federated states).

In addition to the Scorecard, the EUA also published a more detailed description (Country Profiles)[127], which provides a contextual and qualitative summary of the results for each country, complemented by the Rectors' Conference's assessment (called 'view from the sector'). The country profiles also contain information on the composition of the main decision-making bodies within the institution, which is not covered by the Scorecard indicators. Based on these profiles, the degree of self-governance of an academic community can be estimated to some extent, even if it is not scored.

The Scorecard is based on data provided by the Rectors' Conferences completing a highly structured questionnaire. The questionnaire examines each area based on several sub-questions.[128] Responses are refined through follow-up interviews where necessary. Results are validated by national rectors' conferences in several rounds. In the case of the latest survey, this process lasted for one year because not only responses to indicators were validated, but also a broader narrative for each system.[129] In addition, results were cross-checked with other relevant data collections (such as Eurydice or ETER), and the coherence of the scoring of similar systems was also checked.[130]

[126] https://www.university-autonomy.eu/

[127] EUA (2017): University Autonomy in Europe III. Country Profiles. EUA, Brussels. https://eua.eu/resources/publications/351-university-autonomy-in-europe-iii-country-profiles.html

[128] Although the questionnaire is not available in full, all indicators and response options can be found in the country profile report.

[129] The methodology is described in detail in the Country Profiles report. See also: Estermann, T. – Nokkala, T. – Steinel, M. (2011): University Autonomy in Europe II. The Scorecard. EUA, Brussels. https://eua.eu/downloads/publications/university%20autonomy%20in%20europe%20ii%20-%20the%20scorecard.pdf

[130] Thomas Estermann, personal communication

Through aggregating and weighting[131] the response scores, results are processed into four composite indices, each reflecting the degree of autonomy of institutions in the participating systems on a particular dimension on a scale between 0 and 100 (100 means the full autonomy of institutions). There is no combined or overall ranking, which is intentional. The authors stress that results do not reflect how 'good' or 'bad' a higher education system is. The results are not suitable for rank systems because there is no relationship between different dimensions.[132]

Table 7– Institutional autonomy in EU Member States in the EUA Autonomy Scorecard

Country	Organisational	Financial	Staffing	Academic
Austria	78	59	73	72
Belgium / Flanders	70	76	76	35
Belgium / Walloon	90	52	44	32
Croatia	62	60	36	50
Denmark	94	69	86	75
Estonia	87	77	100	98
Finland	93	67	92	90
France	59	45	43	37
Germany / North Rhine-Westphalia	68	43	63	88
Germany / Brandenburg	58	44	58	87
Germany / Hesse	77	35	63	88
Hungary	56	39	50	58
Ireland	73	63	43	89
Italy	65	70	44	56
Latvia	57	90	89	45
Lithuania	87	61	83	42
Luxembourg	34	91	94	89
Netherlands	69	77	73	48
Poland	67	54	84	68
Portugal	80	70	62	54
Slovakia	42	70	61	56
Slovenia	65	57	44	44
Spain	55	55	48	57
Sweden	61	56	97	66
United Kingdom	100	89	96	89

Source: Country Profiles[133]

It may be interesting to compare the results of the EUA Autonomy Scorecard and the institutional autonomy dimension of analysis of the legislative environment (by Karran et al.; see chapter 6.2.1). The results are comparable as both focus on public university sectors and have conducted de jure analysis at roughly similar points in time (2014 vs 2016). On figure 3, the four autonomy dimensions of the EUA Scorecard have been averaged for each country.

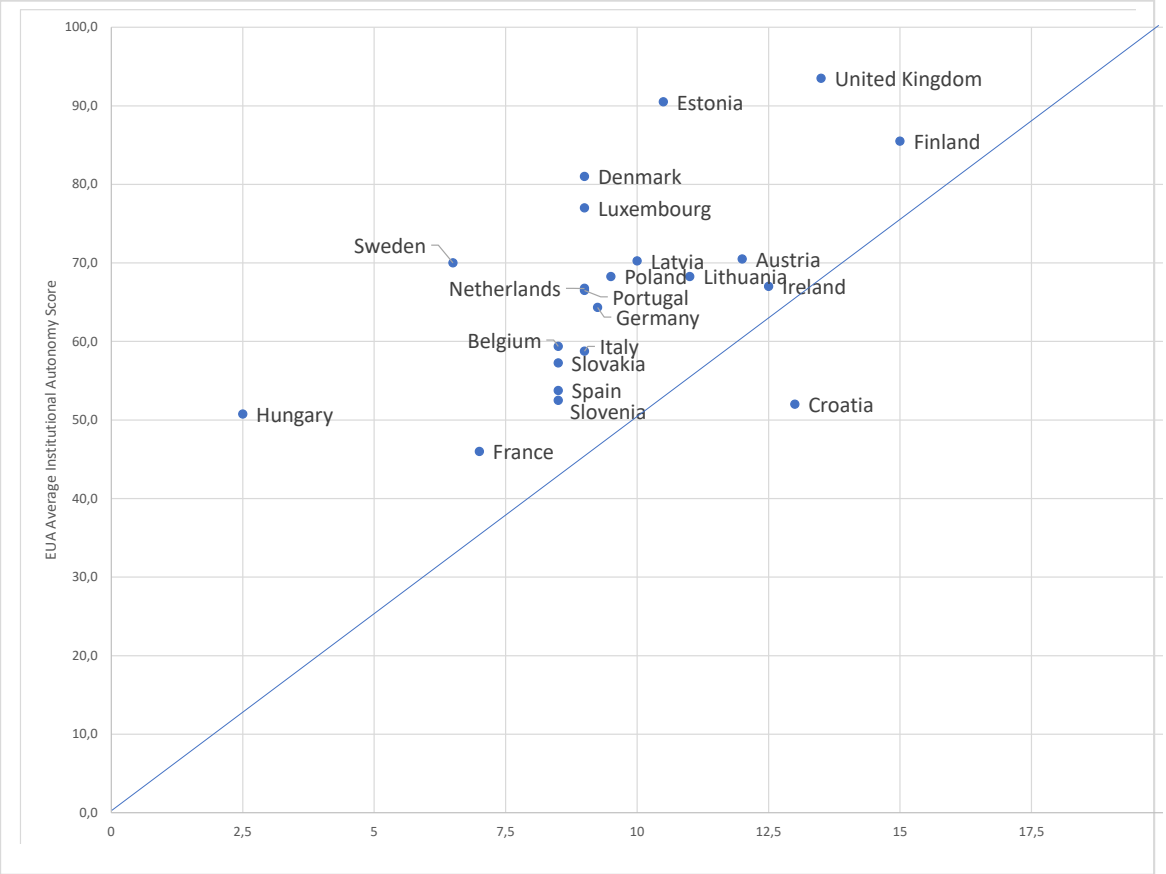
[131] The weights of the indicators were determined based on the preferences of the Rectors' Conferences in 2010.

[132] https://www.university-autonomy.eu/about/

[133] EUA (2017): University Autonomy in Europe III. Country Profiles. European University Association, Brussels. https://eua.eu/downloads/publications/university%20autonomy%20in%20europe%20iii%20country%20profiles.pdf

The results show that the EUA Autonomy Scorecard yields systematically higher levels of autonomy for each country (Croatia being the only exception). The largest difference between the two methods is for countries where the EUA scores high on autonomy and Karran et al. scores medium at most (e.g., Denmark, Estonia, Spain, UK, Netherlands, Luxembourg). The only exception is Hungary, which the EUA rated rather medium, while Karran rated it by far the lowest. The overlap between indicators, the weighting of indicators and the scoring guide should be examined in more detail to reveal the reasons for the systematic differences.

Figure 3 – Institutional autonomy in the EUA Autonomy Scorecard and in Karran et al. legal protection assessment



The strength of the EUA Scorecard is that it provides comparable data on institutional autonomy, which can be a starting point for further in-depth studies. The comparison is particularly meaningful in specific sub-questions, even if these necessarily simplify the complex legal situations to some extent. A limitation of the comparison is that participation is voluntary, so not for all higher education systems in the EU data are available to evaluate (for example, Romania, Greece, Czechia or Malta are missing from the survey of 2016). Even if all EU Member States are included in future surveys, voluntary participation may be a risk for an academic freedom monitoring assessment that wants to build on these results.

The number and detail of indicators give an accurate picture of the legal state of institutional autonomy, especially because it is possible to consider operational and lower-level regulations by involving country experts. The only exception is the self-governance aspect of autonomy which is not covered. Although the analysis focuses on the de jure aspect of autonomy, the de facto realities are also taken into account to some extent. This is, however, less transparent in the results.

These shortcomings of the Scorecard are counterbalanced by the country profiles, which provide a more complete picture beyond the scoring of the legal framework, especially where much qualitative information is added and puts the results in context for readers.

The Scorecard currently cannot capture the differences arising from the heterogeneity of the higher education system (e.g., differences in institutional autonomy between different sectors or between private and public institutions). The results are not suitable for the analysis of sub-sectors. This gap is particularly relevant in systems where several sectors have a significant weight (e.g., Poland, Portugal, Turkey). It is possible to mitigate this disadvantage, but in practice, this would mean analysing an almost new system requiring additional resources.

The reliability of the Scorecard is increased by focusing mainly on the legal situation, the use of a structured questionnaire, follow-up interviews, validation rounds and cross-checking of data which ensure that answers for each country are coded fairly identically. The team producing the report is very small (only three people), which makes inter-coder reliability high.

The integrity of the results depends on several issues. Reporting organisations in more repressive environments may be subject to covert influence, pressure and self-censorship. At the same time, the legal focus of the survey, the transparency of the indicator scores and the methodology of follow-up interviews, validation and cross-checking reduce the chances of highly biased or distorted results.

The Scorecard requires the participation of one respondent per country, but validation is done by involving other country experts. The survey-based data collection does not seem very resource-intensive, but the follow-up interviews, validation and cross-checking of results (necessary for validity and reliability) require significant resources. This is countered by the fact that surveys appear with an uncertain regularity, which makes it difficult to incorporate them into yearly reports. The currently available data are more than six years old (the 2017 release is based on a 2016 survey). The new edition is expected in 2023. A half-decade of follow-up does not allow us to react to emerging problems or negative trends regarding academic freedom.

In addition to the EUA Autonomy Scorecard, many similar evaluations were published in the past decades, such as the comprehensive review of Eurydice[134] or the review of the structural reforms in EU Member States between 1995 and 2008[135]. Most of these are based on expert evaluations and use partly different dimensions, but were only published on a single occasion.

[134] De Coster, Isabelle – Forsthuber, Bernadette – Oberheidt, Stephanie – Parveva, Teodora – Glass, Anna (2008): Higher Education Governance in Europe: Policies, Structures, Funding and Academic Staff. Eurydice, Brussel. https://op.europa.eu/en/publication-detail/-/publication/f4a537e6-0e90-413b-98b1-e9bf9b1eb90c/language-en

[135] de Boer, Harry – Jongbloed, Ben – Enders, Jürgen – File, Jon (2008): Progress in higher education reform across Europe. Governance reform. Volume 1 Executive summary main report. European Commission, Brussels. https://op.europa.eu/en/publication-detail/-/publication/e5eba507-3f2c-4639-bb87-6aa75a0ef1f6/language-en/format-PDF/source-search

Table 8–Assessment of the Institutional Autonomy Scorecard

Aspect	Assessment
Assessment type	Mixed, the assessment is based on both external evaluation and self-assessment.
Academic freedom concept	Only institutional autonomy and (to a limited extent) employment security is in focus. Institutional autonomy is understood as the distance from the state; the extent of self-governance is not covered by the Scorecard (only by the country profiles).
Level of analysis	Country; within-country differences cannot be analysed.
De facto/De jure	The scorecard describes mainly the de jure situation, but de facto realities are also considered to some extent. Additional information about the de facto situation in the country profiles (not included in the Scorecard) is provided.
Validity	The Scorecard captures the regulatory aspects of institutional autonomy in a multifaceted and sensitive way. Interviews and validation rounds with country experts make it possible to consider the impact of operational and other lower-level regulations. Country profiles provide additional information but in a less structured (and comparable) way. Country profiles put scores into context and help check the validity of the Scorecard.
Reliability	Reliability is assured by the coding book, post-survey interviews, validation rounds and cross-checking to increase data accuracy. The Scorecard is produced by a very small team which increases inter-coder reliability.
Integrity	Respondents theoretically can be put under pressure by national governments, but the mainly legal aspect of the survey, post-survey interviews, validation rounds, and cross-checking makes it difficult to interpret regulations in a significantly distorted way.
Resource requirements	Administering the questionnaire is not resource-intensive but ensures reliability and validity, and producing country reports require many resources.
Comparability	Yes, but several EU countries are missing from the latest data collection.
Frequency of data collection	Ad hoc. The last data collection was in 2016; the next is expected in 2023.

6.2.4. Scholars at Risk – Academic Freedom Monitoring Project

The Academic Freedom Monitoring Project maintained by the Scholars at Risk (SAR) non-profit network aims to 'develop a greater understanding of the volume and nature of attacks on higher education communities to develop more effective protective responses.'[136] The project has been

[136] https://www.scholarsatrisk.org/actions/academic-freedom-monitoring-project/

recording incidents of academic freedom violations since 2013 and publishes the results on its website[137] and the yearly report of Free to Think.

The data collection focuses on six types of violations: killings/violence/disappearance, wrongful imprisonment, wrongful prosecution, loss of position, travel restrictions and other incidents. The other category includes incidents that do not fall into the previous categories but, because of their importance, scale or complexity, have a significant impact on academic freedom (e.g., campus closure; destruction of higher education facilities or infrastructure; systematic or persistent harassment or threats against members of the higher education community; systematic restriction of access to higher education).

The SAR Secretariat staff and a network of volunteers worldwide carry out data collection. The monitoring of incidents that may fall into the above criteria is continuous. Some of the incidents are reported by the people concerned, while volunteers collect others from primary sources (e.g., statements from victims and witnesses) or secondary sources (e.g., media reports and NGO reports). The latter represents the majority of the incidents in the database.

Incidents are reported if they can be confirmed by at least two independent sources (either primary or secondary). In doing so, efforts are made to exclude biased sources, and if there are conflicting reports from multiple credible sources, this fact should be noted in the report.[138]

The reports are reviewed by the SAR Secretariat staff and published on the SAR website.[139] If an incident is subsequently found to be incorrect or incomplete, the report will be corrected or deleted.[140]

A total of 36 incidents were recorded in EU countries between 2011 and 2021, based on the reports on the website. This is a fraction (1.6%) of the incidents recorded worldwide during this period.

Table 9– Academic Freedom infringement in EU Member States according to Scholars at Risk

Country	Killings, Violence, Disappearances	Imprisonment	Prosecution	Loss of Position	Travel Restrictions	Other	Total
Poland	1	1	3	1		2	8
Greece	4		1			1	6
UK	3			1		2	6
Spain	1	1	1			1	4
Hungary				1		3	4
France	2					1	3
Belgium				1			1
Denmark			1				1
Italy	1						1
Bulgaria				1			1
Netherland						1	1
EU Total	12	2	6	5	0	11	36
World Total	668	622	382	230	89	263	2254

[137] https://www.scholarsatrisk.org/free-to-think-reports/

[138] https://www.scholarsatrisk.org/methodology-of-the-academic-freedom-monitoring-project/

[139] https://www.scholarsatrisk.org/academic-freedom-monitoring-project-index/

[140] https://www.scholarsatrisk.org/category/corrected-reports/

The SAR specifically targets violent, blatant academic freedom violations that draw attention. At times, the cases can exemplify the system on a small scale. Because SAR collects incidents at the institutional level, the data collection is, in principle, suitable for aggregating to subnational or national levels or institutional types.

The strength of the SAR is the data verification process, which increases the credibility of the reports. To ensure proper categorisation of incidents and reliability of the monitoring process, emphasis is placed on standardising the coding process and strengthening inter-coder reliability [141], ensuring that volunteer coders categorise an incident similarly. Coding guidelines are provided for this purpose.

However, the SAR monitoring project is unlikely to give a full picture of the de facto situation of academic freedom. There are several reasons for this. Firstly, the data collection does not cover all dimensions of academic freedom but is mainly oriented to capturing violent cases that receive media attention. Collecting such data can be done cost-effectively even with foreign experts, which is an advantage in the case of repressive states. Systematic collection of less visible cases, however, requires a strong local network of volunteers, which would demand a lot of resources at a global level. In repressive regimes, establishing such a network is more difficult.

Secondly, the data do not include the already established, accepted, persistent forms of repression and the more hidden, soft forms (e.g., self-censorship), so the data underestimate the number of incidents and may also paint a more favourable picture of the de facto situation in repressive states. [142]

Thirdly, in the case of SAR, the fact that the unit of analysis is the incident may also lead to misunderstandings. [143] An incident can cover different scales of violations of academic freedom. One incident may involve only one actor or many, it may cover a single violation or several violations of a similar nature. If an incident involves multiple violations (e.g., loss of employment and travel restrictions), it will be reported as multiple incidents. For this reason, the data cannot be used to compare the situation of academic freedom between countries nor to examine trends over time, although the data can be quantified.

Table 10– The Assessment of Scholars at Risk Academic Freedom Monitoring Project

Aspect	Assessment
Assessment type	Expert-coded cases based on media and self-reporting.
Academic freedom concept	Infringement of the freedom of teaching, research and learning are in focus. Other essential and supportive elements are not covered systematically.
Level of analysis	Institution; aggregation to country level is possible with caveats (see comparability).
De facto/De jure	De facto.

[141] Spannagel, Janika (2020): The Perks and Hazards of Data Sources on Academic Freedom: An Inventory. In: Katrin Kinzelbach (ed): Researching Academic Freedom. Guidelines and Sample Case Studies. FAU Studien zu Menschenrechten 5. FAU University Press. https://www.gppi.net/media/Kinzelbach_2020_Researching_Academic_Freedom-Book.pdf

[142] Janika Spannagel compares the results of violations collected by a local network in Egypt (Association for Freedom of Thought and Expression; AFTE) with the results reported in the SAR and finds that the local network records about eight times as many violations in a given period of time as the SAR. See Spannagel 2020, p. 206.

[143] This is analysed in detail by Spannagel (2020).

Validity	Only the most visible cases are recorded that are reported in the media leading to the underrepresentation of infringements stemming from soft/smart repression.
Reliability	Data is mainly built on media and witness accounts which could be biased.
Integrity	Data collection is conducted mainly by foreign or local volunteers. Because cases are usually documented by other sources, integrity risks are low.
Resource requirements	Resource requirements depend on the depth and extent of data collection and the number of volunteers involved.
Comparability	Limited because the unit of analysis is incident, and one incident can affect one or several academics or students.
Frequency of data collection	Continuous with annual reports.

6.2.5. Freedom House's Freedom in the World (FIW) report

Freedom House, an international watchdog organisation, has been publishing an annual Freedom in the World report since 2013, which examines the state of political rights and civil liberties globally. The report is compiled by in-house and external analysts and expert advisors (for example, 128 analysts and nearly 50 advisors contributed to the 2022 report), who assess and score each country's performance. The evaluations are based on various sources (from news to NGO reports to research findings), and results are reviewed in a series of regional meetings. The final decision is approved by Freedom House staff.[144]

The assessment looks separately at political rights and civil liberties (based on 10 and 15 criteria, respectively). Academic freedom is identified as one of the indicators of civil liberties. Question D3 asks whether academic freedom exists and whether the educational system is free from extensive political indoctrination. The scoring guide for this question shows that this aspect covers both public and higher education, so scorers do not assess academic freedom as such. Assessors should take into account aspects such as whether the government tries to control the content of curricula for political purposes, whether the allocation of resources in public education is free from political considerations, whether political student organisations are allowed to operate freely, whether there is pressure from the government or school administration to follow a particular political agenda, etc.

Questions are answered with a rating on a 0-4 point scale, but narrative descriptions are not provided for scores (it is not clear what exactly is meant by a specific score). Based on the aggregate assessment of political rights and civil liberties, Freedom House rates each country as free, partly free and not free.

In its annual report, Freedom House publishes a summary of each indicator for each country, showing what events occurred in the year that affected the indicator. The previous year's score will be changed if there is a development during the year that justifies a deterioration or improvement, although a gradual change in circumstances may also be reflected in the scores in the absence of an indicative event.

Between 2013 and 2022, the majority of EU Member States received the highest rating of 4 for question D3. Only a few EU Member States' ratings have changed over this period. According to the

[144] The methodological summary is based on https://freedomhouse.org/reports/freedom-world/freedom-world-research-methodology

annual reports, a significant number of them still respect academic freedom, and the deterioration of the indicator is not related to higher education (e.g., Cyprus, Latvia, Croatia). In other cases, the condition of academic freedom is eroded, not academic freedom itself (e.g., dependence on funding, weakening of institutional autonomy). Only a few countries have a specific reason for a deterioration in academic freedom (e.g., Poland, Hungary)

Table 11–Changes in Academic Freedom in EU Member States in Freedom in the World Reports

Country	FiW edition	Change	Explanation
Cyprus	2013-2022	3	'Academic freedom is respected in Cyprus. However, state schools use textbooks containing negative language about Turkish Cypriots and Turkey, and there is some political pressure regarding schools' treatment of sensitive historical and unification-related issues.'
Hungary	2015	4 → 3	'The state generally does not restrict academic freedom. However, a gradual overhaul of the public education system has raised concerns about excessive government influence on school curricula, and legislation adopted in June 2014 has the potential to reduce the autonomy of universities. (...) Amendments passed in 2014 to the Law on Higher Education empower the prime minister to appoint deputy rectors responsible for managing universities' finances. They also allow an award bestowed by the state to take the place of a doctorate in qualifying individuals for the position of rector.'
United Kingdom	2016	4 → 3	'Academic freedom is generally respected. However, the Counter-Terrorism and Security Act of 2015, adopted in February, requires schools and universities to prevent students from being drawn into terrorism and to vet the remarks of visiting speakers as part of that effort. The new legal obligation raised concerns that open debate and academic inquiry could be stifled, adding to a reported trend in which many universities have sought to suppress racist and other potentially offensive speech on campus.'
Poland	2017	4 → 3	'The ruling party has sought to discredit academics who challenge its preferred historical narrative, which largely omits the involvement of Poles in World War II–era atrocities.'
Croatia	2018	4 → 3	'The score declined from 4 to 3 due to the government's reluctance to implement a popular program aimed at modernizing the country's outdated education system.'
Hungary	2018	3 → 2	'The score declined from 3 to 2 due to the adoption of amendments that targeted Central European University, which could be expelled from the country, if it does not comply with burdensome new regulations.'
Latvia	2019	4 → 3	'The score declined from 4 to 3 due to efforts by the government to restrict the use of Russian and other minority languages in schools and universities.'
Romania	2019	4 → 3	'The score declined from 4 to 3 because independent public universities reported reductions in state funding that were apparently linked to their lack of political support for the ruling coalition.'

Source: Freedom in the World reports, https://freedomhouse.org/reports/publication-archives

The strength of the evaluation process is its global scope and the comparability of states. The annual reports capture major developments in each country, providing a useful narrative that can be tracked over time. Principally it would be possible to reflect in the narrative description on more hidden forms of oppression and restriction (e.g., self-censorship), but in practice this is not very realistic due to space constraints and the difficulty of providing factual evidence. Therefore, the sensitivity of the monitoring process is limited. (Although statements may be true, these often lack empirical support; see below.)

The range of experts involved in the assessment is limited and selective. Although their names are included in the report, overall, the results are difficult to manipulate from the outside. Expert evaluation allows for a meaningful assessment (critique) of academic freedom in both constitutional states and repressive regimes. The limited number of staff also helps the consistency of the evaluation and makes the monitoring process financially more sustainable. Nevertheless, the process seems to be resource-intensive on a global or regional scale, depending on the number of involved experts.

The weaknesses of the evaluation method are as follows:

1. This approach examines the concept of academic freedom in general and solely in terms of political indoctrination. In addition, it conflates public and higher education. It omits components such as freedom of research, dissemination of results, institutional autonomy and freedom of learning. For all these reasons, Freedom House does not provide a complete picture of the de facto situation of academic freedom and therefore cannot be attributed full comprehensive validity in this regard.

2. The report provides a holistic assessment of the situation of academic freedom on a national level. It is not possible to assess academic freedom at a sub-national, sectoral or institutional level.

3. The reliability of the results depends on the sources used for the assessment. These sources and their credibility are unknown. As in all expert assessments, a key issue is how experts are selected and how experts' bias and scale inconsistency are dealt with. As Spannagel[145] points out, the means of addressing these issues are not transparent. Not much is known, for example, about the coding guidelines, the contents of the code book or how to resolve disagreements. Neither are individual-level evaluation data available (unlike, for example, the AFI). The range and heterogeneity of the participants are relatively small compared to the number of countries assessed. It is uncertain whether the appropriate contextual knowledge is available for all countries. (For example, there seems to be an under-representation of experts from the Middle and Far East in the 2020 report.[146])

Table 12–Assessment of the Freedom House Freedom in the World Report

Aspect	Assessment
Assessment type	Expert assessment.
Academic freedom concept	Academic freedom is assessed in general, focusing mainly on teaching. Academic freedom in public and higher education are discussed together.
Level of analysis	Country; assessing within-country differences is not possible.
De facto/De jure	De facto.
Validity	Assessment does not focus on higher education specifically and leaves several elements/conditions of academic freedom out of consideration. The report can cover only major developments and is less sensitive to smart repression techniques.
Reliability	Reliability-enhancing tools (coding guide, used sources, selection of experts) are not transparent.

[145] Spannagel, J.: The perks and hazards of data sources on academic freedom: an inventory. In: Kinzelbach, K. (ed.) Researching academic freedom: guidelines and sample case studies, pp. 175–221. FAU University Press (2020)

[146] Of the 79 analysts who contributed to the 2020 report, 41 worked in the US or related institutions and 21 in European institutions. 3 came from Latin American institutions, 3 from African, 3 from East Asian and Australian, 3 from Canadian, 3 from Middle Eastern and 2 from Far Eastern institutions. See https://freedomhouse.org/sites/default/files/2021-08/FIW2020_book_JUMBO_PDF.pdf (p.1471)

Integrity	Internal staff and experts are involved in the assessment lowering the risk of external manipulation of results.
Resource requirements	Resource requirements depend on the number of experts to be involved in the assessment.
Comparability	Yes.
Frequency of data collection	Annual reports.

6.2.6. Surveys

To assess the de facto situation of academic freedom, it is possible to ask the opinion of academics. In Europe, a large online survey on academic freedom was carried out with around 5000 respondents in the 2010s.[147] Academics were reached via letters to rectors, trade unions and direct invitations to lecturers at major universities. The questionnaire is not available, but based on the published reports, there were questions on areas such as knowledge about academic freedom, the instruments of legal protection at an institutional and national level, and the development of different aspects of academic freedom and experiences of self-censorship.

Table 13– Some of the results of the European-level survey on academic freedom

	'Freedom has declined in'				
	Teaching	Research	Autonomy[148]	Governance	Tenure
Strongly agree/agree	27,3%	31,0%	43,5%	42,8%	54,0%
Neither agree nor disagree	33,6%	32,0%	32,0%	32,9%	23,9%
Strongly agree/disagree	39,1%	36,6%	36,6%	23,3%	22,0%

Source: Karran-Beiter (2020), p134[149]

The same questionnaire was also used in the UK, which was completed by around 2000 respondents.[150] In this case, academics were reached in cooperation with the trade unions. Scholars at Risk has developed a questionnaire specifically for the study of self-censorship, which has so far been surveyed in the Middle East.[151] The issue of academic freedom was also included as a question in other surveys. The international comparative research called Changing Academic Profession, a

[147] The documents presenting survey results give different figures and do not indicate when the data were collected. See Karran, Terence – Beiter, Klaus D. (2020): Academic freedom in the European Union: legalities and realities. In: Sjur Bergan, Tony Gallagher and Ira Harkavy (eds): Academic Freedom, Institutional Autonomy and the Future of Democracy. Council of Europe, Higher Education Series No. 24. Council of Europe. pp. 121-138. See also: Karran, Terence (2019). Threats to academic freedom and autonomy of universities in Europe. Expert report. AS/Cult/Inf (2019) 06. Council of Europe.

[148] The autonomy column seems to be inaccurate. The sum of the numbers in this column is 112%.

[149] Karran, Terence – Beiter, Klaus D. (2020): Academic freedom in the European Union: legalities and realities. In: Sjur Bergan, Tony Gallagher and Ira Harkavy (eds): Academic Freedom, Institutional Autonomy and the Future of Democracy. Council of Europe, Higher Education Series No. 24. Council of Europe. pp. 121-138

[150] Karran, Terence – Beiter, Klaus D. – Mallinson, Lucy (2021): Academic freedom in contemporary Britain: A cause for concern? Higher Education Quarterly 76(3): 563-579. DOI: 10.1111/hequ.12346

[151] Faek, Rasha (2021): Self-Censorship in Arab Higher Education: an Untold Problem. Al-Fanar Media. https://al-fanarmedia.org/2021/04/self-censorship-in-arab-higher-education-an-untold-problem/

cross-national survey conducted in several rounds, contained questions on academic freedom although this was notthe focus of the research.[152]

One of the advantages of surveys is that they are a cost-effective way of obtaining the views and lived experiences of a large number of respondents in a structured way, making the results more comparable than interviews. Moreover, comparisons can be made between countries and within countries, i.e., sectors, regions or even institutions. For example, Karran, Beiter and Mallinson provided empirical evidence that the UK institutions at the top of the rankings typically have higher levels of academic freedom as perceived by academics.[153]

Questionnaire surveys are also a good way of gathering information on topics that are difficult to collect in other ways. These include, amongst others, self-censorship, although the latency in such cases can still be high.

Surveys do of course have their difficulties and weaknesses. Spannagel highlights four major challenges.[154]

a. **Problems with sample selection:** participation in most questionnaire surveys is voluntary, and those who are less satisfied are more likely to participate. Self-selection can distort results, in which critical views can easily become over-represented. Achieving a sufficiently large number of respondents is often a challenge, but even with a large number of respondents, the results cannot be considered representative and, therefore, generalisable. This can only be ensured by random sampling, which requires a lot more resources (for example, in some countries, it is difficult to obtain comprehensive data even on the population of academics).
b. **Distorting effects of loaded questions and social desirability:** it is difficult to ask questions that are not suggestive or distorting. For example, in an EU-level questionnaire (by Karran et al.), respondents were asked to take a position on the statement, 'Academic freedom for research has declined in my institution in recent years', which suggests that academic freedom is declining. (A more neutral formulation could have been how academic freedom for research has changed.) Since academic freedom is a value strongly embedded in higher education, any question on this topic also puts normative pressure on academics to give the 'right' answer (i.e., which protects academic freedom). For this reason, for example, some researchers argued that academic freedom and other loaded terms should be avoided in questionnaires.[155]
c. **Ambiguous terms:** a further problem may be that some terms and concepts mean different things in different cultural contexts so that respondents may interpret the questions differently. The distortions from different interpretations can be particularly significant when respondents only have vague, unclear ideas about the concept itself. The term academic freedom seems to be just such a concept.[156] Most academics think it is important but cannot necessarily define its content. Variations in understanding key terms

[152] See, for example, Teichler, Ulrich – Arimoto, Akira – Cummings, William. K. (2013): The changing academic profession. Major findings of a comparative survey, Dordrecht: Springer, 2013 p.; Aarrevaara, Timo (2010): Academic freedom in a changing academic world, European Review 18(S1):55-69

[153] Karran, Terence – Mallinson, Lucy (2019): Academic freedom and world-class universities: A virtuous circle? Higher Education Policy 32: pp. 397–417. https://doi.org/10.1057/s41307-018-0087-7

[154] Spannagel, J.: The perks and hazards of data sources on academic freedom: an inventory. In: Kinzelbach, K. (ed.) Researching academic freedom: guidelines and sample case studies, pp. 175–221. FAU University Press (2020)

[155] Cole, Jonathan R - Cole, Stephen - Weiss, Christopher C. (2015): Academic Freedom: A Pilot Study of Faculty Views. In: Bilgrami, Akeel - Cole, Jonathan R (2015): Who's afraid of academic freedom? Columbia University Press, New York. p. 343-394

[156] Karran, Terence (2019). Threats to academic freedom and autonomy of universities in Europe. Expert report. AS/Cult/Inf (2019) 06. Council of Europe.

may limit comparability between countries because the meaning of such terms could also vary in different educational systems.

d. **Results in repressive states could be distorted:** in more repressive states, where there is more control over communication, surveys may not reflect the true views of academics because of fear of observation and retaliation. In the case of voluntary and self-completion questionnaires, it is also easy to manipulate the results, for example, by mobilising regime loyalists or coercing academics to respond in the 'right' way. Data protection issues also arise in such cases.

In conclusion, the validity and reliability of any survey can only be guaranteed under very strict conditions, which cannot be easily ensured.

Table 14– The assessment of surveys

Aspect	Assessment
Assessment type	Opinion data.
Academic freedom concept	Anything is possible, depending on the survey questions.
Level of analysis	Usually institutional or national, but any aggregation level is possible depending on the survey questions.
De facto/De jure	De facto (usually).
Validity	Validity depends on how relevant the respondents' experiences are to the issues under consideration. Random/ representative samples have higher validity than samples with self-selection. Latency can still be high.
Reliability	Reliability depends on whether self-selection and sampling are controlled or not.
Integrity	In repressive states, integrity can be problematic because of a higher level of self-censorship and supervised communication. The risk is also higher in the case of self-selection and non-controlled sampling.
Resource requirements	Controlled (random) sampling requires more resources.
Comparability	High.
Frequency of data collection	Depends on the data collection.

6.2.7. Expert case studies

An expert case study is a report that presents and analyses the situation of academic freedom (or other phenomena) in a country from the perspective of an expert rather than a stakeholder, using a wide range of sources. Case studies are a relatively traditional method of studying academic freedom.

For example, the international non-profit organisation Human Rights Watch published a report on academic freedom and human rights violations in Africa as early as 1991, in which the situation in

African countries was analysed.[157] This was later followed by further reports on Indonesia (1998)[158], Egypt (2005)[159] and the impact of China's presence in Australian universities on academic freedom (2021).[160] A recently published book, edited by Katrin Kinzelbach, includes case studies on Ireland, Brazil, Russia and Egypt.[161] There are other independent reports as well (e.g. Hungary).[162]

One of the advantages of expert case studies is that the method is very flexible. It is possible to tailor its structure, emphasising some topics and ignoring others, depending on the country's characteristics and data availability. The case study method can reflect on the de jure and de facto academic freedom, describe differences within countries, and illustrate more hidden forms and mechanisms of academic freedom violations and repressions. It may be able to show concerns and unfolding negative trends that are not visible in quantitative reports, legal analysis or other past-oriented monitoring procedures.

Flexibility also applies to the methodology. Case studies can be based on primary data collection (most often document analysis and interviews) but also on the processing of secondary data (questionnaires collected by others, analyses, press reports, etc.) or a combination of several methods. The report may also include soft information such as confidential communications. In the following, we will reflect mainly on the methodology of the expert case study based on interviews.

The key to the benefits and reliability, and validity of case studies is the availability of appropriate empirical data and the selection of experts. If empirical data is missing or biased, the validity and reliability of the case study may be compromised. For example, a case study based on interviews is mainly suitable for identifying typical life situations and operational problems; the extent and frequency of problems can only be examined in a limited way (a large number of interviews would be needed). However, if the interviewees are selected from a specific group (as may be the case, for example, in a snowball selection method), the analysis may fail to spot important perspectives and problems. For the validity and reliability of the case studies, it is therefore very important to select the interviewees in a way that fits the research focus, the methodological transparency and reflection on possible biases. It may also be useful to allow stakeholders to add their comments or shadow report to the case study.

Less reflective or biased experts might treat and present information selectively. This underlines the importance of the selection method of experts.

Although there is little possibility to manipulate expert case studies and interview research, in repressive states, the selection of experts and access to data can be more challenging because experts and interviewees are more likely to be subject to harassment and access to data is more restricted. There is also a greater possibility of interference and self-censorship. Possible solutions, such as using expatriate experts and interviewees, make it more difficult to ensure validity.

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[157] Human Rights Watch (1991): Academic Freedom and Human Rights Abuses in Africa. [157] https://www.hrw.org/report/1991/03/01/academic-freedom-and-human-rights-abuses-africa

[158] Human Rights Watch (1998): Academic Freedom in Indonesia. Dismantling Soeharto-Era Barriers. https://www.hrw.org/report/1998/08/01/academic-freedom-indonesia/dismantling-soeharto-era-barriers

[159] Human Rights Watch (2005): Reading between the 'Red Lines'. The Repression of Academic Freedom in Egyptian Universities. https://www.hrw.org/reports/2005/egypt0605/egypt0605.pdf

[160] Human Rights Watch (2021): 'They Don't Understand the Fear We Have'. How China's Long Reach of Repression Undermines Academic Freedom at Australia's Universities. https://www.hrw.org/report/2021/06/30/they-dont-understand-fear-we-have/how-chinas-long-reach-repression-undermines

[161] Kinzelbach, K. (ed.) Researching academic freedom: guidelines and sample case studies, pp. 175–221. FAU University Press (2020)

[162] Kováts, G. – Rónay, Z. (2020): Academic Freedom in Hungary. Global Observatory of Academic Freedom, Central European University, Wien. http://unipub.lib.uni-corvinus.hu/7220/1/KovatsG_GOAF_Academic_Freedom_in_Hungary_20220218_FINAL.pdf

A further disadvantage of the case study method is that thick descriptions are suitable mainly for illustrating the academic freedom infringement methods in a country, for example, by describing changes, capturing the mechanisms at work, and showing typical problems. Relying primarily on interviews and expert experience, case studies are less suitable for providing reliable evidence of the scale and scope of academic freedom violations.

Case studies are also less suitable for direct comparisons between countries. The flexibility of the case study method, i.e., the lack of standardisation of topics and analytical criteria, is a factor in the lower level of comparability. However, a certain level of standardisation is possible, allowing limited comparability. Kinzelbach, for example, suggests a general structure and analytical aspects for case study researchers.

Table 15 – A Possible Structure of Expert Case Studies

1. Summary
2. Methods, Sources, and Scope of the Study
3. Characteristics of the Higher Education Sector
4. Current State of Academic Freedom and Key Developments in the Recent Past
    - 4.1 Legal Protection of Academic Freedom
    - 4.2 Institutional Autonomy and Governance
    - 4.3 Freedom to Research and Teach
    - 4.4 Exchange and Dissemination of Academic Knowledge
    - 4.5 Campus Integrity
    - 4.6 Subnational and Disciplinary Variation
    - 4.7 Efforts to Promote Academic Freedom
5. Conclusion

Source: Kinzelbach, 2020

The resource requirements for expert case studies depend mainly on the amount of primary research data needed. It should also be taken into account that the disadvantages of expert case studies based on interviews and documents can be reduced by increasing the resources devoted to data collection (e.g., conducting more interviews and using different data collection techniques). Another possibility to reduce the methodological disadvantages is to include secondary research data in the analysis.

Table 16 – The assessment of expert case study/interviews method

Aspect	Assessment
Assessment type	Expert assessment based on opinions and personal experience/expertise.
Academic freedom concept	Flexible, anything is possible.
Level of analysis	Flexible, anything is possible.
De facto/De jure	Both de facto and de jure are possible
Validity	Validity and sensitivity depend on the data collection methods. The validity of interviews depends on the goal of the study and the selection of interviewees. The interview is an adequate method to explore sensitive issues, such as self-censorship.
Reliability	Reliability depends on the data collection methods. Reliability can be increased by involving other sources and data collection methods (triangulation).
Integrity	Integrity depends on the selection of experts and the data collection methods. Interviews are difficult to manipulate.

Resource requirements	Depends on the extent of data collection (e.g., the number of interviews).
Comparability	Qualitative data are usually more difficult to compare. Limited comparability can be achieved by standardising guidelines.
Frequency of data collection	Depends on the data collection method.

6.3. Assessment procedures

6.3.1. Universal Periodic Review of Human Rights

The Universal Periodic Review of Human Rights (UPR) is a cooperative mechanism based on an interactive dialogue established in 2006 by the United Nations.

The UPR includes a periodic review of the human rights situation in all 193 UN Member States and the sharing of best practices on human rights. The ultimate goal of the UPR is to improve, promote and protect human rights in each country. The UPR also includes an assessment of the human rights performance of the state concerned and an investigation of human rights violations.

The review is based, among others, on the UN Charter, the Universal Declaration of Human Rights, and human rights treaties ratified by the state concerned. The scope of the UPR can be regarded as broad. The issue of academic freedom typically comes to the fore in the context of the right to education if it is raised as an issue by one of the parties to the proceedings. In the international database of recommendations resulting from the study, only three specifically address the academic freedom issue.[163] Nonetheless, an understanding and critical evaluation of the process and experience of UPR can be useful as a model for systematically monitoring academic freedom.

The process is conducted in four-and-a-half-year cycles. The year 2022 ends the third cycle (2017-2022). Each state is reviewed once per cycle, and 42 states are reviewed each year; a state's human rights record is reviewed approximately every four to five years.[164]

The Human Rights Council's UPR Working Group plays the main role in the review, which is made up of 47 members of the Council. However, any UN Member State can participate in any interactive dialogue of the review process. Each state's review is facilitated by a group of three states, known as a 'troika,' which acts as a facilitator and rapporteur. The selection of the Troika for each state is made by lot.

The review is based on the following documents.

1) The national report is a self-evaluation report submitted by the state under review. There are recommendations regarding the structure and content of the report. It should, for example, address the implementation of recommendations made in previous evaluation rounds.

2) Compilation of reports of treaty bodies and special procedures and other relevant United Nations documents regarding the state under review.

3) Stakeholders' submissions (shadow reports) summarise comments and information submitted by national human rights institutions, non-governmental organisations, and other stakeholder groups.

The review process begins in the UPR Working Group, which engages in an interactive dialogue to discuss the human rights situation in the state under review. During the discussion, any UN member

[163] https://upr-info-database.uwazi.io/

[164] The schedule of cycles is available here: https://www.ohchr.org/en/hr-bodies/upr/cycles-upr

state may raise questions, comments and/or recommendations. Non-governmental organisations, civil society actors, and national human rights institutions may also participate in the UPR process by submitting comments and information to the stakeholders' report, which any state can refer to during the review. NGOs may also participate in other ways in certain stages of the UPR process (attendance, observation, questioning, etc.).

Following the review by the Working Group, the Troika prepares a report with the involvement of the state under review. The so-called 'outcome document' consists of questions, comments and recommendations to the state under review and its responses. The report is adopted by the Human Rights Council's plenary meeting. The process is quite transparent; all relevant documents are available on the website of UPR.[165]

The implementation of the recommendations is the responsibility of the state concerned, which must report on the outcome in the next round of reporting. The Human Rights Council decides what action to take if a state persistently fails to cooperate with the UPR.

The strength of the process is that it covers all UN Member States. The UPR is cyclical and predictable, ensuring that the recommendations' implementation can be monitored. Further strengths are the high degree of peer involvement and the focus on dialogue, which can foster mutual learning and trust. However, the process also suffers from some difficulties and weaknesses, both in terms of methodology and academic freedom.

The process covers the entire field of human rights and because of its wide scope, academic freedom receives minimal attention. Resultingly, only very general statements are made about academic freedom, and there is no room for a more detailed analysis. No specific concept of academic freedom is used.

Validity and reliability are heavily subjected to the fact that the process is predominantly based on national reports prepared by state governments. As only national reports are presented at the working group meetings, 'shadow reports' are less integrated into the process. The quality of national reports, therefore, determines the outcome of the review. The validity and reliability of the process depend largely on the process by which the self-assessment report is prepared, whether it is based on real and comprehensive data and whether civil society organisations and stakeholders are involved in the process.

The experience of the first two review periods showed that only a fraction of states had carried out a genuine internal consultation process in preparing the report[166]. This suggests that the reports are likely biased or distorted (intentionally or unintentionally). The claims in the stakeholder report could counterbalance this, but the content of these will be influenced by the extent to which civil society organisations dare to make comments and suggestions in the process. It is doubtful whether the UPR works equally well in states with the rule of law and repressive regimes. Thus, 'the UPR risks becoming little more than an intergovernmental 'beauty contest'' [167], where states primarily want to showcase successes rather than shortcomings.

A further difficulty is that the working group works to a very tight schedule, meetings are highly formalised, and time constraints are significant, making it difficult to engage in meaningful dialogue on the human rights situation in a country. This has led to a very high value of the role of

[165] https://www.ohchr.org/en/hr-bodies/upr/documentation

[166] Gujadhur, Subhas – Limon, Marc (2016): Towards the Third Cycle of the UPR: Stick or Twist? Lessons learnt from the first ten years of the Universal Periodic Review. Policy Report. Universal Rights Group. https://www.universal-rights.org/urg-policy-reports/towards-third-cycle-upr-stick-twist/

[167] Gujadhur – Limon 2016:3

recommendations in the process. Accordingly, the average number of proposals per country multiplied from 430 in the first cycle to 1800 in the second.[168]

The procedure lacks the means to enforce either cooperation or an improvement in the human rights situation. The UPR process is extremely time and resource intensive because of its magnitude.

Table 17 – The assessment of the Universal Periodic Review of Human Rights (UPR)

Aspect	Assessment
Assessment type	Government self-assessment, supplemented by shadow reports from various stakeholder groups.
Academic freedom concept	Academic freedom is assessed in general (but theoretically, all elements of academic freedom can be addressed).
Level of analysis	Country-level; within-country differences are not highlighted (but theoretically possible). No aggregation is possible to other analytical levels.
De facto/De jure	The focus of state reports is unclear. Both de facto and de jure are possible.
Validity	The process addresses academic freedom in a very general way. Validity must be assessed from country to country because it depends on the data used for the self-assessment and the range of stakeholders and experts involved.
Reliability	Reliability must be assessed from country to country because it depends on the process of preparing self-assessment reports and the actors involved in the review.
Integrity	Biased governmental self-assessment is difficult to control, and state repression/deterrence of internal stakeholder organisations from participating in the review process is possible. Recommendations and reports from external stakeholders can counterbalance these distortions, but they play only a minor role in the process.
Resource requirements	High, because of the magnitude and complexity of the review procedure.
Comparability	Low, the focus is on recommendations (formative review).
Frequency of data collection	Periodic, in every 4 to 5 years.

6.3.2. Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART)

The Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) is a joint ILO/UNESCO committee of experts responsible for monitoring the

[168] Gujadhur – Limon 2016

application of the 1966 and 1997 UNESCO Recommendations concerning teachers and higher education teachers.[169]

CEART acts mainly based on reports from national and international public and higher education organisations (often trade unions). There is no comprehensive and continuous monitoring process, which would be difficult to achieve given the global scope. CEART does not only deal with issues related to higher education and academic freedom. Academic freedom cases represent a small proportion of cases (e.g., one out of four in the 2021 report and none among follow-up reports).[170]

A notification submitted by an aggrieved party triggers CEART's investigation process if there is reason to assume that one or more provisions of one of the recommendations have not been applied.

The joint committee appoints a member to act as a 'direct contact' to investigate the circumstances of the allegation. This procedure depends on whether the country's government and relevant teachers' organisation(s) accept the allegation. The joint committee seeks the comments of the involved parties and then holds several rounds of consultations with the whistleblower, relevant stakeholders, and the government. The government can respond to the notification, based on which the notifier may submit a counter-notification, on which the government may then reflect again. The joint committee then makes soft recommendations that set out policy directions and emphases (at least in academic freedom).

CEART's process is not suitable for a comprehensive assessment of academic freedom in a country because it is based on individual cases and incidents. The procedure cannot, therefore, be considered valid. It is not sensitive to soft repressions, and within-country differences cannot be highlighted. However, cases are well documented and involve multiple stakeholders. This strengthens the reliability of the assessment, and although the results are not generalisable, they may be suitable to illustrate academic freedom allegations.

The process is triggered by whistleblowing, but whistleblowers can be deterred in repressive political regimes. In such a context, it is likely that reporting will only take place in the case of the most blatant violations, but even then, the reporting organisation is exposed to pressure.

The process is slow and extremely time-consuming, as illustrated by the fact that, in some cases, the government response can take several years. Its resource requirements from the ILO/UNESCO perspective are less significant and, from the stakeholders' perspective, may vary depending on the complexity of the case.

Table 18 – The assessment of the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART)

Aspect	Assessment
Assessment type	Investigation of specific cases and mediation between the parties.
Academic freedom concept	Flexible, anything is possible.
Level of analysis	National, institutional or individual level is possible. Aggregation is not possible to other analytical levels.
De facto/De jure	Focus on de facto, but de jure is also possible.

[169] Founding document: https://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@sector/documents/meetingdocument/wcms_162315.pdf

[170] CEART reports are available at https://www.ilo.org/global/industries-and-sectors/education/ceart/lang--en/index.htm

Validity	The process focuses on specific infringements rather than evaluating the general state of academic freedom. The validity depends on whether all relevant parties are involved in the process.
Reliability	The reliability depends on whether all relevant parties are involved in the process.
Integrity	The process focuses on specific cases. The parties involved may be discouraged from participating in the process.
Resource requirements	Depends on the number of parties involved.
Comparability	Not possible, the process focuses on specific cases.
Frequency of data collection	Ad hoc.

6.3.3. Institutional investigations by the AAUP Academic Freedom Committee

The Association of American University Professors (AAUP) is a non-profit association which develops and promotes standards and procedures that maintain academic freedom, shared governance and quality of education in American colleges and universities.[171] AAUP regularly surveys academic freedom, self-governance and tenure.[172]

The AAUP maintains a special body (called Committee A on Academic Freedom and Tenure) for promoting academic freedom. The committee applies AAUP's academic freedom policies in investigations of infringements. The Committee produces institutional reports on academic freedom that are predominantly based on investigations into specific abuses against individual academics or institutional (governance) restructuring.[173] The AAUP does not produce a comprehensive (country-level) assessment of academic freedom based on individual and institutional reports.

The procedures and rules for investigations in institutions are set out in the AAUP Red Book.[174] The investigation process may be initiated by formal notification or by the news brought to the attention of AAUP officials. When possible, the AAUP will attempt to mediate between the parties to find an acceptable resolution. If the matter cannot be satisfactorily resolved, the AAUP executive director will appoint an investigation committee to conduct a site visit to investigate the case and evaluate it in the light of the AAUP standards for academic freedom. During the site visit, interviews are conducted with the actors involved, based on which a report is drafted for Committee A (the report is, of course, subject to several rounds of consultation). Committee A decides on the adoption the report and its publication in the AAUP journal (Academe) and on its website. The reports of the investigation committees may lead to the censure procedure, as a result of which the concerned institution may be placed on the censure list.[175] The responsibility for imposing censure rests with the AAUP's Council. The censure list has a reputational effect primarily because censured institutions are listed by other professional organisations besides the AAUP and are reported in academic media.

[171] https://www.aaup.org/about-aaup

[172] https://www.aaup.org/our-work/research

[173] https://www.aaup.org/reports-publications/aaup-policies-reports/academic-freedom-and-tenure-investigative-reports

[174] Association Procedures in Academic Freedom and Tenure Cases. In AAUP (2015): AAUP American Association of University Professors Policy Documents and Reports. 11th edition. John Hopkins University Press, Baltimore. p.393-395. See also: https://www.aaup.org/our-programs/academic-freedom/committee-procedures

[175] https://www.aaup.org/our-programs/academic-freedom/censure-list

The strength of the AAUP's investigation process is that it compares specific institutional practices to clearly articulated policy standards. At the same time, the investigation depends heavily on the cooperation of the institution concerned. There are no data on the extent to which the results of the findings will lead the institution to reconsider its decision. The procedure is suitable for a detailed and factual presentation of individual cases but not for a systematic and comprehensive assessment of academic freedom on a national level. It can, therefore, only be considered valid and reliable in a very limited scope (for a specific institution). The procedure is resource-intensive, and a wider application would require even more resources. In a transnational context, it is hardly conceivable that all countries would cooperate with external review panels or investigation committees.

Table 19 – The assessment of the institutional investigations by the AAUP Academic Freedom Committee

Aspect	Assessment
Assessment type	An expert visiting committee investigates the case and writes the report. AAUP mediates between the parties.
Academic freedom concept	All essential and supportive elements can be covered in the process.
Level of analysis	Institutional (only in the US); it is not possible to aggregate results at the country level.
De facto/De jure	Both de facto and de jure are possible.
Validity	The process focuses on specific infringements rather than evaluating the general state of academic freedom. The validity depends on whether all relevant parties are involved in the process.
Reliability	The reliability depends on whether all relevant parties are involved in the process.
Integrity	An external expert committee writes the report, but the participation of the interested parties in the process is voluntary, and institutional whistleblowers can be deterred by institutional management.
Resource requirements	All cases are investigated and reported by expert visiting committees, which requires significant resources.
Comparability	Not possible.
Frequency of data collection	Ad hoc.

7. Conclusions

1. Academic freedom is a fundamental right within the European Union. However, the way academic freedom is regulated in EU Member States varies. There are differences in the extent to which national legislation names and defines the content of academic freedom. This leaves room for different interpretations. The picture is similarly mixed at the international level. Although the EU Charter of Fundamental Rights declares academic freedom as a fundamental right, a more detailed explanation of what it means is missing. A more detailed description can be found only in different international recommendations and covenants, which interpret academic freedom differently. In addition, they are not binding legally. Therefore, any initiative that strengthens a more unified and common understanding of the concept of academic freedom and its incorporation in legally binding documents will help to promote academic freedom in Europe.

2. Academic freedom is a set of rights and obligations of the academic profession. However, it is a matter of agreement on who is considered a member of the profession. In a narrow sense, only qualified academics are entitled to academic freedom, but in a broader sense (which seems to prevail in Europe), students, support staff or even lay researchers can also have academic freedom.

3. Academic freedom consists of several elements summarised in the so-called onion model. In the model, essential and supporting elements are distinguished. The essential elements form the core of academic freedom. A violation of these elements leads to a violation of academic freedom. The essential elements include freedom of teaching and freedom of research, and, in the broad sense, freedom of learning. The freedom of dissemination is often portrayed as part of the freedom of teaching and research, but we treat it as a separate essential element. Many believe that these freedoms can only be exercised if the members of the academic community have a meaningful say in decisions affecting the conditions of teaching and research. Therefore, the right of self-governance (which is not the same as its institutional autonomy) is often also seen as an essential element.

4. Supporting elements are those elements that protect essential elements. Their absence does not necessarily imply a violation of academic freedom, but infringements are more difficult to prevent without such safeguards. These elements include employment security (tenure or similar long-term employment framework) and institutional autonomy.

5. Many organisations are involved in defining, promoting and monitoring academic freedom in Europe. Besides the already existing measurement methods and evaluation procedures, both the intergovernmental cooperation of the European Higher Education Area and the European Commission and the EU Member States have plans to strengthen or monitor academic freedom. There is no doubt about the current lack of an assessment method or procedure that systematically and specifically examines the situation of academic freedom in the EU Member States in greater depth. These developments and circumstances make it an option for the EP to consider whether a new green-field initiative in monitoring academic freedom is needed.

6. Assessing the status of academic freedom is a difficult task because 1) academic freedom is a complex concept, 2) there could be a difference between the de jure status as defined by law and the de facto status that exists in reality, 3) there can be differences within each country, for example between sectors or institutions 4) academic freedom is subject to influence and violation by many different actors (state, companies, public, academia itself) and 5) in addition to overt and direct forms of violation of academic freedom, there are also more covert and subtle elements that are more difficult to detect (e.g. self-censorship, corruption).

7. An overview of the existing assessment methods and monitoring procedures of academic freedom shows a rather varied picture. Some methods are not systematic and are published only occasionally or irregularly (e.g., most evaluations carried out by academics, case study reports).

Other methods examine academic freedom only tangentially, often in conjunction with other human rights (Freedom House Reports, UPR). These methods may not be sufficiently in-depth and necessarily oversimplify the situation by highlighting only highly visible events or legislations. Some methods focus specifically on one or several elements of academic freedom to compare countries with each other (e.g. AFI). They compress information to such an extent that the context behind the numbers cannot be seen anymore. Finally, some methods focus on only certain aspects of academic freedom (e.g., de jure analysis, violent infringements). These methods highlight important developments but cannot give the full and true picture of academic freedom in a country.

8. We believe there is both room and opportunity to develop a new academic freedom monitoring tool focusing on EU Member States. This new instrument should be:

a. **comprehensive**, that is, it should focus on both the essential and supporting elements as well as the regulatory environment and reality,
b. **systematic**, that is published regularly,
c. **able to integrate** the results of existing assessment methods and flexible enough to incorporate the results of methods developed in the future,
d. **able to contextualise** the results of existing assessment methods, making developments and worrying trends (such as the erosion of supportive elements) visible,
e. produced according to a broadly consistent methodology and criteria for some comparability,
f. **independent** in the sense that results should be difficult to influence or manipulate by parties interested in the systematic weakening of academic freedom,
g. **formative** so that it can serve as the basis for development projects.

8. Policy options

Policy option 1: Strengthening the binding legal definition of academic freedom

a. While the EU Charter of Fundamental Rights declares academic freedom as a fundamental right, various interpretations are in use. This makes it difficult to enforce academic freedom, which became evident in the case of the Central European University brought to the European Court of Justice by the European Commission against Hungary.
b. The protection of academic freedom could therefore be enhanced by including a detailed definition of academic freedom in European-level regulations binding on the EU Member States, such as the EU Charter of Fundamental Rights, which does not describe the content of academic freedom and leaves its interpretation to the EU Member States. The Treaty on the Functioning of the European Union (TFEU) could also be amended to include and define academic freedom.[176] It is a matter for further discussion whether such regulations should include a broad or a narrow interpretation of academic freedom.
c. The advantage of the broad option is that the most comprehensive and strongly mandated European policy documents typically take this as their starting point (e.g. EHEA Annex, Bonn Declaration).

Policy option 2: Increasing synergies between EHEA-EEA-ERA by joining/promoting existing monitoring methods or developing an independent monitoring mechanism

a. The benefit of growing synergies is that intellectual and financial resources are joined, whilst a much greater impact can be achieved through coordinated action. Notwithstanding these advantages, harmonising interests in a larger community of states requires more effort and determination. The necessary expertise, as well as financial and administrative resources have to be allocated to the set up of such a monitoring mechanism.
b. The European Commission's initiatives and the EHEA initiative may face difficulties due to the need for a common agreement with several EU Member States, which may cause delays in implementing the new monitoring process.
c. A further dilemma may be that the proposal developed in the EHEA working group has to cover the whole EHEA so that the final solution will be tailored to a much more heterogeneous set of countries rather than the EU Member States.
d. One possible option to increase synergies is to facilitate the integration of academic freedom into institutional quality assurance procedures.

Policy option 3: Developing an independent academic freedom monitoring procedure

The following issues should be considered during the development of a new academic freedom monitoring procedure.

First, it should be decided whether a new measurement or procedure is needed. Developing new measurement methods (such as the AFI or the EUA Scorecard) requires considerable academic expertise. Quantitative methods are more suitable for capturing changes on a larger scale. At the same time, these are less suitable for dealing with subtle changes. Besides, quantitative methods are past-oriented and are less suitable for anticipating concerns and adverse changes in conditions.

[176] See, for example, Deketelaere, Kurt (2022): Academic Freedom as a Fundamental Right. Presentation held at STOA Conference on Academic Freedom in Europe, EP, Brussels, 28 November 2022

They do not provide enough contextual information about recent developments in a given country. Therefore, we believe that developing new procedures would be more appropriate.

Second, it should be decided what kind of procedure is needed. It could be an assessment procedure or a complaint-handling approach (such as the AAUP, CEART, or the mechanism introduced by the EU Whistleblower Directive[177]). We exclude the latter because they do not allow us to draw general conclusions about academic freedom in the country. They are also not suitable for forecasting.

Based on these arguments, we consider two possible methodological directions as feasible: expert-assessment-based and self-assessment-based procedures. Both could focus on the elements of the onion model: the de facto position of freedom of teaching, freedom of research, freedom of dissemination (including extramural and intramural speeches), and the right of self-governance. The analysis should also reflect on supportive elements, that is, the status of institutional autonomy and employment conditions and the legal protection of academic freedom. It is also worth paying attention to the obligations stemming from academic freedom.

Third, the frequency of the monitoring process is worth considering. How often does academic freedom change to a degree worth reflecting on in the report? What resources are needed to produce the reports?

a. Annual reports can monitor changes continuously but require resources depending on the methodology.
b. Monitoring with a less frequent periodicity (e.g., every 4-5 years) is still predictable for the actors but requires fewer resources. For example, with 5-yearly monitoring, around 5-6 countries would be examined each year. The disadvantage of this approach is that negative developments are harder to detect and more difficult to interfere with them.
c. A possible option is a risk-based selection, i.e., more frequent monitoring in countries where academic freedom is less favourable or negative trends are apparent. While resources are used where they are needed, the choice of the countries to be studied is a political decision, which may lead to conflict.

Despite the heavy workload, we believe that a regular annual assessment is the most feasible and sensible option because there are more difficulties and risks related to risk-based assessment or an assessment with less frequent periodicity.

In the followings, we outline different expert-based and self-assessment-based procedures.

Policy option 3a: Meta-evaluation by experts

This approach involves a narrative description of recent developments in academic freedom along clear criteria and scoring on a scale. This approach requires a small full-time, in-house coordinating team and involved country experts. Beyond expert opinion and scoring, this option may integrate other data-collection instruments to counterbalance the possible bias of experts, such as country-level representative surveys among academics, shadow report stakeholder organisations or legal framework analysis.

The advantage of this approach is that it provides a comprehensive picture of academic freedom and can be flexibly extended by involving new instruments according to needs and resources.

In the case of this option, a strong involvement of academic stakeholders would be needed in the design of the monitoring process (see policy option 4). Their involvement increases the visibility, recognition and acceptance of the monitoring process leading to a more significant impact.

[177] Whistleblower Directive (2019/1937)

Policy option 3b: Self-assessment procedure similar to UN's UPR approach

Each country's government prepares a self-assessment of academic freedom based on pre-defined guidelines and criteria, to which any stakeholder organisation can attach a shadow report. At a hearing organised by the EP, the situation of each country is discussed based on the self-assessment and the shadow reports.

Self-assessment, together with voluntary stakeholder reports, can give a relatively complete picture of the situation in a country. However, since the hearing is essentially based on self-assessment, it can overshadow stakeholder opinions. The report could be biased or manipulative. To counterbalance this distortion, it is imperative to put emphasis on stakeholder reports in the process. Moreover, this procedure does not lead to a single comprehensive report on academic freedom in the country. Finally, it is unclear why states would agree to participate in such a procedure. What happens to those who refuse to participate? A further problem can be the protection of stakeholders from external (governmental) pressures.

Policy option 3c: Self-assessment report followed by a visiting committee like a quality accreditation process

This is a process in which each country's government, or its designated authority/stakeholder organisation carries out a self-assessment according to a guide, to which other relevant stakeholders can add their own views. Each country is visited by a visiting committee which is briefed on the situation of academic freedom in interviews and panel discussions. The committee prepares an evaluation report based on the self-assessment and the experience of the visit, which would be adopted and published by the relevant EP committee.

This approach is resource intensive, especially if the visits occur annually. The motivation of governments (authorities) to follow the guidelines and carry out a self-assessment is also unclear. Here too the problem of protecting involved stakeholders from external (governmental) pressures appears.

Policy option 3d: Self-evaluation by an academic representative stakeholder organisation similar to the EUA Autonomy Scorecard report

In each country, an academic representative stakeholder organisation (e.g., a university association or a teachers' union) carries out a self-evaluation by answering a structured questionnaire. This is followed by clarifying follow-up interviews where necessary. On the basis of these results, a small team of experts prepares a detailed country report for each country.

The advantage of this procedure is that the results are relatively comparable and detailed.

The disadvantage is that it requires a team of experts and a quite resource-intensive process to ensure validity. The team has to develop the questionnaire, which can be challenging. The stakeholder organisation filling in the questionnaire could easily come under pressure in the country, distorting self-assessment. While the de jure situation is easier to assess in this way, the stakeholder organisation may not have a complete (or unbiased) picture of the de facto situation.

Policy option 3e: Complex (combined) approach

This monitoring process combines some of the advantages of the previous options. This process consists of three mechanisms:

a. Each government reports annually by completing a well-structured questionnaire. The questionnaire can be filled in by other pre-approved stakeholder organisations so that several perspectives on the development of academic freedom in a given year will be available.

b. Every 4-5 years, each government produces a self-evaluation report. The academic freedom report is prepared by an expert visiting committee based on the self-evaluation and the experience gained during the visit.
c. An exceptional (complaints) procedure is also available when an EU authority receives a complaint from an EU Member State about a violation of academic freedom.

The advantage of this complex procedure is that it can be used to monitor progress and provide a more detailed independent evaluation. It also has the potential to develop a culture of academic freedom, detect negative trends, encourage continuous self-reflection by EU Member States and allow for rapid intervention in critical cases. Its disadvantages are its complexity and rather high resource requirements.

Policy option 3f: An institutional level assessment of academic freedom – an accreditation approach

In contrast to previous policy options, in this case, the assessment is carried out at the institutional level and not at the national level. It is based on institutional accreditation procedures, whereby quality assurance agencies assess institutions against the European Standards and Guidelines (ESG). The EHEA-BFUG Fundamental Values Working Group suggests that this procedure could be extended to include an assessment of academic freedom. Although the institutional-level assessments cannot be automatically aggregated to a national level, they would provide a good empirical basis for a national-level report. (See chapter 5.2.)

This policy option will result in a solution that will apply not only to EU Member States but also to EHEA Member States. Implementing this option requires the EP to support the BFUG Working group and does not exclude the possibility of other policy options.

Policy option 4: Increased stakeholder involvement in developing the specific monitoring procedure

In our opinion, the new monitoring process for academic freedom should be developed with intensive involvement of academic stakeholders. Therefore, we recommend as a policy option that the EP should create forums for cooperation with academic actors, experts and policymakers and establish an operational framework for the development process. This could also be part of the cooperation with EHEA, EEA and ERA.

Policy option 5: Developing and disseminating procedures and methods to strengthen academic integrity

Academic freedom does not only bring forth benefits but also responsibilities. Therefore, it is particularly important to strengthen academic integrity because its absence can undermine trust in the academic profession and freedom. While strengthening integrity should primarily be the responsibility of the academic community, the European Parliament can promote the discourse. Efforts to strengthen academic freedom provide a good opportunity to focus on the issue of academic integrity as well.

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10. Annexes

Short summaries of the policy documents analysed

1. Rome Ministerial Communique Annex I: Statement on Academic Freedom

The Ministerial Conference of the European Higher Education Area (EHEA) recently stated in its communiqué issued in Rome on 19 November 2020 that academic freedom is a 'distinct, fundamental democratic right,' a 'universal value rooted in the pursuit of knowledge and truth.' Academic freedom is a fundamental condition of democracies, a universal value whose content and implementation cannot depend on the functioning of a particular country or institution.

The declaration broadly defines the holders of academic freedom, including students: 'Academic freedom designates the freedom of the academic community - including academic staff and students.' Of particular interest is that the subjects of these rights are not simply individuals but the academic community.

However, academic freedom is not an absolute value because the range of behaviours covered by academic freedom can vary in time and space. The Declaration includes four broad areas in the concept of academic freedom: 'research, teaching, and learning, the dissemination of research and teaching outcomes both within and outside the higher education sector' The four areas have in common that they all 'entail the freedom to think, to question, and to share ideas,' and this makes academic freedom a fundamental element of democracies. In each case, the absence of fear of reprisal must prevail. The declaration states that academic freedom is a right also for those involved in communication outside higher education.

The freedom to teach extends not only to the content and method of teaching but also to the freedom to share opinions, questions, and ideas in the teaching-learning process.

Freedom of research includes the freedom to determine the subject matter, purpose, method, and research contributors. It also includes the methods and means by which research findings are disseminated.

Members of the community can only exercise academic freedom with responsibility, accountability, and rigorous professional and academic standards.

The Communiqué also sets out the conditions that fundamentally affect the functioning of academic freedom. These include:

- how the institution is governed, where it is expected that the academic community (academic staff and students) could 'participate meaningfully in decision-making processes and have the right to express their views on their institution's policies and priorities without fear of reprisals.'
- student selection, which is linked to issues of access and equal opportunities,
- conditions of selection and f employment security of academics.

The Ministerial Communiqué does not discuss the relationship between institutional autonomy and academic freedom.

2. UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel

The 1997 UNESCO Recommendation specifically refers to the status of teachers in higher education, and students are not mentioned, so in the UNESCO Recommendation, the academic freedom of students and, thus, freedom of learning cannot be conceptualised. While the EHEA Rome

Communiqué interpreted academic freedom as a right of the academic community, the UNESCO Recommendation considers academic freedom as an individual right.

The UNESCO Recommendation thus covers three major areas of academic freedom (point 27):

- to freedom of teaching and discussion, meaning the freedom to choose curricula and methods according to one's conscience and to contribute to the design of the curriculum
- freedom in carrying out research and disseminating and publishing the results,
- freedom to express freely their opinion about the institution or system in which they work and to participate in professional or representative academic bodies.

Freedom without fear of repression and institutional censorship is specifically mentioned.

Accepted professional principles, professional responsibility, and research ethics can limit academic freedom. The Recommendation stresses that academics must not mislead the public about their professional competence when expressing opinions on matters outside their field of study.

The UNESCO Recommendation allows teachers to be involved in professional activities outside their employment if it does not compromise their primary commitment and does not conflict with institutional rules and priorities.

The UNESCO Recommendation separates institutional autonomy from academic freedom: institutional autonomy is an institutionalised form of academic freedom. According to the Recommendation, autonomy is necessary for higher education to fulfil its social functions. The Recommendation specifically stresses that institutional autonomy should not be used as a justification for restricting the academic freedom of teachers.

Autonomy includes self-governance and collegiality in the academic community. Teaching staff should 'elect a majority of representatives to academic bodies,' and institutions should have a 'policy of participation of all concerned in internal decision-making structures and practices' as well as a series of consultative mechanisms.

UNESCO also formulates the requirement of secure employment guaranteed by tenure (or functionally equivalent solutions).

3. Council of Europe report "Threats to academic freedom and autonomy of higher education institutions in Europe'

According to the latest Council of Europe report 2020[178], academic freedom is a 'professional freedom granted to individual academics'; that is, academic freedom depends on belonging to a particular profession. Academic freedom is a right that belongs to the individual, not, for example, to the academic community.

Academic freedom has two fundamental and three supporting elements. The fundamental elements include freedom of teaching and research, while the supporting elements include tenure, shared governance, and autonomy (individual and institutional).

The CoE report defines freedom of research as the freedom to define the subject matter, the method of research, the researcher and those involved in the research, the purpose of the research, and how the results are disseminated.

The freedom of teaching includes the choice of the content and method of teaching, and also the selection of teachers and students, and the evaluation of students' performance. The CoE report

[178] Council of Europe (2020): Threats to academic freedom and autonomy of higher education institutions in Europe. (Rapporteur: Brenner, Koloman) https://pace.coe.int/en/files/28749#trace-2

does not mention the right to disseminate knowledge as part of the freedom to teach, but as belonging to the freedom of research. Another interesting question is how to interpret the selection of academics and students as an individual right in the case of freedom to teach since this is often exercised by the academic community, not by individual academics.

The supporting elements complement each other to promote academic freedom. They are not directly part of academic freedom, but they are an important condition for it.

- Tenure means both professional selections by peers, ensuring that only competent people are part of the profession, and job security, so that no one can be dismissed based on their professional opinion.
- Shared governance would give academic staff a stronger mandate than in the EHEA Ministerial Communiqué and the UNESCO Recommendation. Academic staff must have a 'determinant voice and a prominent role' in institutional governance. The institution's leaders 'are appointed from among their number and beyond (...) by agreed democratic processes', and 'executive decisions (...) require the support of the majority of academic staff.' (CoE 2020, point 21).
- Individual autonomy means that academics can exercise their academic freedom free from the influence of external and internal individuals and bodies.
- Institutional autonomy means institutions can make decisions about teaching and research free from external influence through shared governance.

Although the CoE report does not directly mention that academic freedom is granted to students, and the discussion of certain elements refers only to teaching and research staff, it does refer in one place to the fact that 'students' academic freedom (...) is rarely, if ever, discussed.' (CoE 2020:point 27).

4. League of European Research Universities advice paper "Academic Freedom as a Fundamental Right'

Although the League of European Research Universities (LERU) is an institutional and not a state-level cooperation organisation, it is certainly relevant to include in the analysis the paper Academic Freedom as a Fundamental Right which was issued as an Advice Paper in 2010. In their approach, academic freedom is also a 'right comprising a complex set of relationships' between individuals, communities and the state. Individual rights are inseparable from the community and governmental aspects because only together can academic practice be promoted.

Accordingly, academic freedom has individual, institutional, and governance dimensions, and all three are important for academic freedom to promote the dissemination of knowledge and foster independent thinking (points 24-25).

LERU (2010) includes the following individual rights within the scope of academic freedom [179]:

- freedom to learn,
- freedom to teach,
- the freedom of research and information,
- the freedom of expression and publication (including the right to freedom to err),
- the right to pursue professional activities outside the field of studies.

It is immediately apparent that LERU also interprets academic freedom in a broader sense and applies it to students through the freedom to learn. This right includes the application of transparent, predictable, documented, and justified selection (i.e., admission) criteria and the right

[179] In addition to these, it sets out rights at the institutional level, which are discussed under institutional autonomy.

to form one's own opinion freely, i.e., to think critically and, where appropriate, to question what is taught. This has implications for the freedom to teach.

Freedom of teaching expresses freedom in defining the content and method of teaching.

One of the main elements of freedom of research is research autonomy, which includes the choice of topic, method, method of analysis, and the right to draw (preliminary) conclusions from the results. It also includes the protection of researchers from being forced against their will or conscience to use a particular topic, method, or conclusion. The third and fourth elements mentioned in the LERU Recommendation are the right of access to data in the public interest and the protection of research data and sources.

Freedom of communication (knowledge sharing, publication) is presented in the LERU paper as a separate element, but the content is more closely linked to freedom of research. It includes freedom to publish, freedom to dispose of research, and freedom of (scientific) expression and opinion. The latter allows one to take any opinion or theoretical position, provided that one can defend it with arguments and data. It also includes the right to make mistakes. Regarding freedom of communication, there are different protections for intramural, extramural, and off-topic communications. Off-topic speech is not protected by academic freedom, and references to the institution or profession should be avoided. Professional statements addressed to the public are covered by academic freedom, but speech that incites violence or hatred must be avoided.

Finally, the right to pursue a professional activity outside the university is mentioned as a separate element concerning the UNESCO recommendation. It is stressed that universities are only justified in restricting external professional activity if their academic obligations are compromised.

LERU does not only talk about rights but also about responsibilities concerning certain aspects of academic freedom. For example, in the context of freedom to teach, bias, distortion, misrepresentation, stigmatisation of students, indoctrination, and the prevention of expressing opinions must be avoided.

Individual academic freedom can only be truly effective if it is also collectively enforced and backed by state guarantees. The possibility of collective action (institutional autonomy) is necessary for academic freedom, but it can also limit the freedom of individual academics. To ensure that the constraints are not greater than necessary, there is a need for institutional autonomy, that is, a certain level of independence from the state (decision-making autonomy at the institutional level) and for an internal democratic decision-making process for free criticism of institutional practices without fear of reprisals.

Provided these are in place, the academic community has the right, with the involvement of the teaching staff, to develop a common curriculum, define admission criteria and procedures for teachers and students, set standards of conduct, and thus limit individual freedoms. In research and publication, however, institutional interests can only be put before individual interests in exceptional cases.

5. Academic Freedom Statement of the American Association of University Professors

The practice of the American Association of University Professors, based on the 1940 resolution (AAUP 1940) and various explanatory papers (AAUP 2015), can be authoritative in the interpretation of academic freedom. Based on these, academic freedom extends to four rights (AAUP 2015):

- freedom of research and publication,

- freedom in the classroom, i.e., the right for the teacher to discuss any controversial topic with the students, as long as it fits the subject matter,
- freedom of extramural utterance, i.e., the right of academics and researchers to express their views on any subject in the public domain, but the duty to communicate accurately, with restraint and openness to dissent, to preserve the reputation of the academic profession and the institution,
- freedom of intramural utterance, that is, freedom to speak on matters of institutional governance.

As with subsequent recommendations and resolutions, the AAUP considers it important to underline that academic freedom also entails obligations and limits. The main limits to academic freedom are scientific standards, ethical norms, and institutional and, in the case of commissioned research, funding interests.

The AAUP also sees the institution of tenure as a guarantee of academic freedom in the course of employment and as a safeguard against abusive dismissal.

While the AAUP does not talk about academic freedom for students, it does see it as a condition of students' right to learn in the context of the right to teach.

6. Bonn Declaration on Freedom of Scientific Research

The Bonn Declaration on Freedom of Scientific Research was Adopted at the Ministerial Conference on the European Research Area on 20 October 2020 in Bonn (hereinafter: BD). It focuses exclusively on research. The freedom of scientific research is 'a core principle of the European Union' and also 'a universal right and public good'. Freedom does not only mean freedom of research, but in broader consideration, it means '[f]reedom of thought and intellectual creativity also require freedom and security of individuals.'

According to BD, freedom of scientific research necessarily contains elements such as: freely defining research questions, choosing and developing theories and research methods, gathering empirical material, questioning accepted wisdom, disseminating the results thereof openly and through teaching, expressing an opinion without 'being disadvantaged by the system in which they work or by governmental or institutional censorship and discrimination'.

Although BD focuses on freedom of research (not academic freedom in general), it promotes elements of academic freedom highlighted by other policies or scholars (e.g., dissemination of knowledge, self-governance, etc.). On the other hand, BD understands freedom of teaching as a part of the right to share, disseminate and publish results. So, BD protects in fact almost all typical elements of academic freedom.

In the BD, freedom of research should be limited 'by the standards of academic disciplines', by the 'regular procedures of the rule of law', and by 'the rights of others.'

Governments have the responsibility to strengthen academic freedom and institutional autonomy. BD expects research organisations to be clear, transparent and comprehensible in sharing and communicating research findings. In particular, it should be clear when they share scientific opinions and when they share scientifically verifiable results. Research organisations should ensure proper, transparent, and effective operation based on responsible self-regulation.

BD declares that 'Freedom of scientific research should be a visible common norm guiding any research and innovation policy dialogue and research cooperation', and the European Research Area must be considered 'as the safeguard of freedom of scientific research, as the precondition for a dynamic research and innovation landscape which strives for the advancement of knowledge and the benefit of society.'

7. UNESCO Recommendation on Science and Scientific Researchers

The UNESCO Recommendation makes proposals to the Member States regarding the regulation of the status of researchers and the main elements of policies concerning researchers.

It states that because of the expertise and responsibility required by research work, 'workers in this profession accordingly need an appropriate status'.

The Recommendation states that 'the term scientific researchers signifies those persons responsible for and engaged in research and development' but adds that 'Member State may determine the criteria for inclusion in the category of persons recognized as scientific researchers'.

The Recommendation applies to researchers, technicians, support staff and students supporting and contributing to research and development, as well as institutions and individuals responsible for research and development.

The Recommendation sets out a number of expectations for Member States (e.g., 'have a sound science, technology and innovation system' or 'establish and substantially strengthen human and institutional capacities').

The Recommendation defines the rights and obligations of researchers. The rights of researchers include:

a. 'to work in a spirit of intellectual freedom to pursue, expound and defend the scientific truth as they see it, an intellectual freedom which should include protection from undue influences on their independent judgement'
b. 'to contribute to the definition of the aims and objectives of the (research) programmes'
c. 'to the determination of the methods to be adopted'
d. 'to express themselves freely and openly'
e. to 'have the right to withdraw from those projects if their conscience so dictates and the right and responsibility to express themselves freely on and to report these concerns'
f. 'to contribute constructively to the fabric of science, culture and education'
g. 'to engage in the sharing of scientific data”

Responsibilities, for example, include the following:

h. researchers should seek to minimise impacts on living subjects of research
i. establishing mechanisms for this purpose, such as ethics review boards, and to ensure scientific researchers’ protection from retribution
j. fully respect the intellectual property rights
k. to specify as explicitly and narrowly as possible the cases in which they deem it necessary to depart from the recommended responsibilities and rights

The document also discusses, for example, the international aspect of scientific research and the conditions for success, such as career development prospects, life-long learning, mobility or performance appraisal.

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In recent years, there has been renewed interest in the true degree of academic freedom around the world despite international declarations, and constitutional and legal protection.

This study aims to support the European Parliament's STOA Panel in developing a procedure to monitor developments in academic freedom in the EU Member States. The study provides an overview of the interpretation of academic freedom in different international declarations, and offers a critical assessment of existing evaluation and monitoring methods and procedures.

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