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Discussion paper

Sub-Theme 3: Safeguarding Academic Freedom

DISCUSSION PAPER

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The New Democratic Pact for Europe places renewed emphasis on strengthening democratic resilience, including through robust legal safeguards for academic freedom, recognised as a cornerstone of open, pluralistic and rights-based societies. Academic freedom safeguards evidence-based inquiry, pluralism of ideas, institutional autonomy and the integrity of public debate. Academic freedom protects the rights of the entire academic community – including researchers, teachers and students – to pursue, develop and communicate knowledge without undue interference. Without academic freedom, democracy is weakened.

This discussion paper invites Ministers to reflect on recent analytical work undertaken by the Council of Europe and to consider how legal and policy frameworks can be strengthened to protect academic freedom as a core democratic value.

1. Why Academic Freedom Matters

Universities and research institutions have their foundations on academic freedom and institutional autonomy to generate independent knowledge, challenge received ideas and contribute meaningfully to democratic life. Academic freedom and institutional autonomy are mutually reinforcing but distinct principles. Academic freedom enables scholars and students to acquire, develop, transmit and apply knowledge through research, teaching, learning and public engagement. It underpins informed policymaking, protects society against information manipulation and historical distortion, and sustains public trust in scientific expertise. Institutional autonomy safeguards the capacity of higher education institutions to govern themselves and create conditions in which those freedoms can be exercised.

Across Europe, however, academic freedom is under growing pressure. Recent Council of Europe analyses identify several interconnected trends:

1. *Direct political interference*, including restrictions on curricula, research fields and public expression.
2. *Indirect interference*, through funding mechanisms, governance reforms, regulatory constraints or erosion of institutional autonomy.
3. *Legal intimidation*, including Strategic Lawsuits Against Public Participation (SLAPPs), criminal defamation cases and regulatory sanctions designed to silence academic voices.
4. *Self-censorship*, whereby scholars refrain from pursuing or communicating research due to fear of reputational damage, sanctions or harassment.
5. *Online harassment and polarisation*, producing chilling effects on academic communication and public engagement.

These developments are not limited to overtly a small number of states or to authoritarian contexts. They affect all democratic systems, often in more subtle and indirect ways, through funding mechanisms, governance arrangements, employment practices or digital environments. Taken together, these trends point to a structural and systemic challenge that requires coordinated and forward-looking responses.

The Academic Freedom Index and monitoring initiatives show that academic freedom has declined globally over the past decade. This deterioration directly affects the quality of democratic deliberation.

Safeguarding academic freedom is therefore not solely a higher education issue. It is a democratic imperative.

2. The Core Structural Challenges

Academic freedom benefits from indirect protection under international human rights law, including freedom of expression, freedom of thought and the right to education. However, growing international recognition emphasises that academic freedom also constitutes a distinct human right linked to the specific functions of teaching, research, learning and communication. There is a clear need to strengthen legal certainty and provide more targeted protection for academic freedom.

Within the Council of Europe framework, Recommendation CM/Rec(2012)7 established important political guidance on the responsibility of public authorities.

However, recent analytical work of the Council of Europe highlights structural gaps:

1. Fragmented protection: Existing safeguards are uneven across member States. Reliance on general rights provisions does not always address the specific realities of academic activity, institutional governance and research ecosystems

2. Indirect and cumulative pressures: Political interference increasingly takes indirect forms: governance reforms limiting self-governance, discretionary funding practices, exclusion of academics from policymaking, and administrative restrictions

3. Legal weaponisation: SLAPPs and other abusive proceedings misuse the legal system to silence scholars. Such cases often rely on resource imbalances and “process as punishment,” fostering self-censorship

4. Self-censorship and institutional culture: Even without formal prohibitions, fear of sanctions, reputational attacks or social isolation may lead to internalised silence, creating a “spiral of silence” within institutions

5. Limited implementation mechanisms: Recognition of academic freedom as a human right is increasing at international level, yet accountability, monitoring and redress mechanisms remain underdeveloped

The challenge is therefore not the absence of principles, but the gap between principle and effective protection under contemporary conditions.

3. Issues for Ministerial Consideration

The Council of Europe’s Democratic Mission of Higher Education Programme and the (forthcoming) policy report on legal protections map existing standards and identify recurring structural gaps. In this context, Ministers are invited to reflect on the following issues:

1. Adequacy of Existing Legal Protections

To what extent do current international and national frameworks provide sufficiently clear, coherent and enforceable protection for academic freedom, particularly against indirect, structural and cumulative pressures?

2. Visibility and Legal Certainty

Would clearer articulation of academic freedom as a distinct human right within the Council of Europe system enhance legal certainty, public understanding and consistent implementation across member States?

3. Coherence and consistency:

How can the Council of Europe support greater coherence in the protection of academic freedom across diverse higher education systems, while respecting institutional autonomy and national specificities?

4. Future Normative Development

What added value might result from strengthening the normative framework at Council of Europe level, including the possible development of a legally binding instrument, to consolidate principles, enhance coherence and reinforce democratic safeguards?

4. Key Guiding Questions for Ministers

Ministers are invited to consider:

1. How can member States ensure that higher-education institutions and academic communities exercise academic freedom and institutional autonomy effectively, free from political, economic and legal intimidation, and thereby fulfil their democratic mission?
2. What level of normative clarity and legal commitment is required to bridge the gap between principle and effective protection in today's context?
3. How can monitoring, accountability and implementation mechanisms be strengthened to ensure that academic freedom is protected not only in law, but in practice?
4. What role should the Council of Europe play in consolidating standards, supporting member States and reinforcing academic freedom as a cornerstone of the Democratic Pact for Europe?