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DRAFT REPORT

with recommendations to the Commission on Promotion of the freedom of scientific research in the EU
(2023/2184(INL))

Committee on Industry, Research and Energy

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(Initiative – Rule 47 of the Rules of Procedure)

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with recommendations to the Commission on Promotion on the freedom of scientific research in the EU
(2023/2184(INL))**

The European Parliament,

- having regard to Article 225 of the Treaty on the Functioning of the European Union,
- having regard to Articles 49, 56 and 179(1) of the Treaty on the Functioning of the European Union,
- having regard to Article 13 of the Charter of Fundamental Rights of the European Union,
- having regard to the Bonn Declaration on Freedom of Scientific Research adopted at the Ministerial Conference on the European Research Area on 20 October 2020 in Bonn (the ‘Bonn Declaration’),
- having regard to Commission Communication of 30 September 2020 entitled ‘A new ERA for Research and Innovation’(,
- having regard to the ERA Policy Agenda, Action 6,
- having regard to Commission Communication of 3 December 2020 entitled ‘the European Democracy Action Plan’,
- having regard to recital 72 of Regulation (EU) 2021/695 of the European Parliament and of the Council establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013¹,
- having regard to Rome Ministerial Communiqué of 19 November 2020, in particular Annex I on Academic Freedom,
- having regard to the SFIC Opinion on the implementation of the Bonn Declaration on Freedom of Scientific Research in International Cooperation in Research and Innovation (ERAC-SFIC 1356/21)(2021),
- having regard to the UNESCO Recommendation on Science and Scientific Researchers (2017),
- having regard to the Recommendation Concerning the Status of Higher Education

¹ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

Teaching Personnel, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO), at its 29th session from 21 October to 12 November 1997,

- having regard to the International Covenant on Civil and Political Rights,
 - having regard to the International Covenant on Economic, Social and Cultural Rights,
 - having regard to the Universal Declaration of Human Rights,
 - having regard to Rules 47 and 54 of its Rules of Procedure,
 - having regard to the report of the Committee on Industry, Research and Energy (A9-0000/2023),
- A. whereas the freedom of scientific research is one of the constituent parts of academic freedom and is under pressure in the Union²;
- B. whereas the Bonn Declaration was adopted at the Ministerial Conference on the European Research Area on 20 October 2020 in Bonn and subsequently signed by all Member States;
- C. whereas the Bonn Declaration includes a definition of the freedom of scientific research as well as a recognition of the responsibilities for both governments and research organisations to promote the freedom of scientific research;
- D. whereas a solid body of jurisprudence of the European Court of Human Rights on academic freedom, including the freedom of scientific research, exists which sets out a number of legal standards and principles for the protection and promotion of academic freedom;
- E. whereas, in the judgement of the Court of Justice of 10 January 2006 in Case C-66/18 the Court of Justice found that Hungarian Law on national higher education deprived the affected organisations of the organisational structure that is necessary for conducting their academic research;
- F. whereas specific Union legislative acts, such as Regulation (EU) 2022/2065 of the European Parliament and of the Council³, limit the freedom of scientific research by submitting the academic sector to regimes designed for regulating the internal market;
- G. whereas Commission President Ursula von der Leyen, prior to her confirmation by Parliament, pledged in the Political Guidelines for the next European Commission 2019-2024 to support a right of initiative for Parliament and committed to respond with a legislative act when Parliament adopts resolutions requesting that the Commission

² [STOA study](#): State of play of academic freedom in the EU member states: Overview of de facto trends and developments

³ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).

submit legislative proposals;

1. Acknowledges the fundamental importance of freedom of scientific research in promoting innovation, progress, and wellbeing in the Union;
2. Is concerned about the recent backsliding of this fundamental right in the Union, which threatens to undermine the development of a functioning and competitive European Research Area (ERA);
3. Notes that the Commission's communication of 30 September 2020, entitled 'A new ERA for Research Innovation' confirms that the completion of the ERA requires the full respect of the freedom of scientific research;
4. Is deeply concerned that the Commission, despite its strong words in the ERA Communication, is failing to use its legal authority to protect this freedom in the Union;
5. Reaffirms the Union's commitment to upholding fundamental rights, including the right to freedom of thought, conscience, and religion, academic freedom as well as the freedom of scientific research and the arts as enshrined in the Charter of Fundamental Rights of the European Union;
6. Urges the Commission to take all necessary steps to protect and promote the freedom of scientific research in the Union, including using its legal authority to prevent any further backsliding with regard to this fundamental right;
7. Calls on the Member States to fully respect and uphold the freedom of scientific research, and to ensure that any measures taken in the name of public interest do not unduly restrict the freedom of scientific research;
8. Stresses that the completion of the ERA requires the full respect of the freedom of scientific research, and that any attempts to undermine or failure to actively promote this freedom will have negative consequences for the development of a competitive and innovative ERA;
9. Expresses its concern with regard to the Commission's failure to use its legal authority to protect the freedom of scientific research is a serious abdication of its responsibility, and calls on the Commission to take immediate action to remedy that situation;
10. Calls on the European Council to support the protection and promotion of the freedom of scientific research, and to ensure that this fundamental right is fully respected in all Member States;
11. Requests that the Commission submit, on the basis of Article 182(5), in conjunction with the Article 179(1), of the Treaty on the Functioning of the European Union, a proposal for an act on the freedom of scientific research, following the principles and aims set out in the Annex hereto;
12. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

ANNEX: PRINCIPLES AND AIMS OF THE PROPOSAL REQUESTED

Defining the Freedom of Scientific Research

1. The freedom of scientific research is a constituent part of academic freedom in Europe, while also having an independent value, as exemplified by the specific reference in Article 13 of the Charter of Fundamental Rights of the European Union.
2. The freedom of scientific research provides rights to individual scientific researchers, rights and obligations for scientific research organisations, and obligations for public authorities.
3. The proposal should build on the definition of the freedom of scientific research as set out in the Bonn Declaration.

Freedom of scientific researchers

4. Scientific researchers should be defined broadly in line with the Council Recommendation on a European framework to attract and retain research, innovation and entrepreneurial talents in Europe. It should not extend to researchers performing research in circumstances where the freedom of scientific research can clearly not apply, such as scientific research for a private, for-profit company where such research is conducted to give the company a legitimate competitive advantage compared to its competitors.
5. The freedom of scientific research is the right for individual researchers to freely define research questions, to employ sound scientific research methods, to challenge conventional wisdom and to propose new ideas and theories.
6. The rights of individual researchers include at least:
 - (a) the right to associate in representative professional or academic organisations;
 - (b) the right to access information, public or private, needed for scientific purposes, which is to be balanced with the rights of information holders;
 - (c) the right to keep specific information or data, as well as the source for that information or data confidential in order to abide by ethical and scientific standards, to achieve a scientific or other legitimate objectives;
 - (d) the right to publish, share, disseminate and communicate openly, both intramural and extramural, the results and data of their research.
7. Individual researchers should be able to enjoy these individual rights without fear of reprisal. The exercise of those rights since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Rights and obligations of scientific research organisations

8. In order to guarantee the freedom of scientific research for scientific researchers, scientific research organisations should enjoy effective institutional autonomy. While institutional autonomy is a prerequisite for the freedom of scientific research for scientific researchers, it is not by definition subordinate to the rights of individual researchers. Beyond its role to protect the freedom of scientific research, institutional autonomy is required for the proper functioning of the scientific sector. Therefore, the proposal should carefully balance the individual rights with institutional autonomy.
9. Aspects to be considered for establishing institutional autonomy include organisational autonomy, financial autonomy, staffing autonomy and scientific autonomy.
10. Institutional autonomy is highly contextual and can be achieved in many different ways with different combinations of autonomy. For effective institutional autonomy to exist, not all these different aspects of institutional autonomy need to be fulfilled. Therefore the definition of institutional autonomy in the proposal should not be static.
11. Institutional autonomy can legitimately exist only if the research organisation provides some form of self-governance and participation in decision-making for its scientific researchers.
12. Scientific researchers should have the right to participate in and contribute to the governing of scientific research organisations. This includes the rights to publicly comment on the governing of the organisation without fear of reprisal. This also includes the responsibility for research organisations to create a culture of open debate. It also includes having in effective procedures to report misconduct, to protect, in accordance with the standards set out in Directive (EU) 2019/1937 of the European Parliament and of the Council¹, people reporting misconduct, breaches of academic standards or ethical standards, as well as discrete procedures, based on protecting privacy and the presumption of innocence, to handle misconduct reported.

Governmental obligations

13. Governmental bodies in the Union, at all levels of government including the Union level, should have the obligation to respect, protect, promote and ensure the freedom of scientific research.
14. Respect for the freedom of scientific research means that governmental bodies refrain from arbitrary interferences in and imposing undue restrictions on the freedom of scientific research.
15. Protecting the freedom of scientific research means that governmental bodies have an obligation to take active measures to protect against third parties unduly interfering with any dimension of the freedom of scientific research.
16. Ensuring the freedom of scientific research means that governmental bodies have to actively create all the preconditions needed for the exercise all aspects of the freedom.

¹ 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 (OJ L 305, 26.11.2019, p. 17).

This includes policies for sustainable research careers.

17. Promoting the freedom of scientific research means that governmental bodies have to engage actively with third parties to advocate for the respect, protection and ensuring of the freedom of scientific research.

General considerations

18. The legislative proposal should reflect that the freedom of scientific research has to be considered as a negative (free from interference) as well as a positive (ensure that enabling framework conditions exist) freedom. Scientific research should be free from undue government interference and there should be a strong scientific community as well as a civic body receptive to scientific knowledge for the exercise of the freedom of scientific research.
19. The legislative proposal has to recognise that there are cases where scientific research and education overlap, such as in the work of a university professor or in the management of a department of a university. Given the legal basis of the proposal, as well as the very limited competences of the Union to legislate on education, the proposal should aim to protect the freedom of scientific research.
20. The proposed act should be legally binding across the Union. The proposal should aim to create a legal framework which offers sufficient flexibility to balance the rights and obligations on a case-by-case basis and can be applied throughout the Union despite the vast diversity in the national and regional scientific research systems. It should create a starting point for the development of legal minimum standards for the freedom of scientific research through case-law from European courts, including the Court of Justice of the European Union.