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Promotion of the freedom of scientific research in the EU

European Parliament resolution of 17 January 2024 with recommendations to the Commission on promotion of the freedom of scientific research in the EU (2023/2184(INL))

(C/2024/5713)

The European Parliament,

- having regard to Articles 49, 56 and 179(1) and 225 of the Treaty on the Functioning of the European Union,
- having regard to Articles 12 and 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 Commission communication of 18 May 2021 on the Global Approach to Research and Innovation, entitled 'Europe's strategy for international cooperation in a changing world',
- having regard to the European Research Area Policy Agenda, Action 6,
- having regard to Commission communication of 3 December 2020 on 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 1291/2013 ⁽¹⁾,
- having regard to the 2023 European Added Value Assessment on Promotion of the freedom of scientific research presented by the European Added Value Unit to the Committee on Industry, Research and Energy on 18 September 2023,
- having regard to Rome Ministerial Communiqué of 19 November 2020 by the European ministers responsible for higher education, in the framework of the European Higher Education Area, in particular Annex I on Academic Freedom,
- having regard to the SFIC Opinion on the implementation of the Bonn Declaration 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 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,

⁽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).

- 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 recommendations of Strategic Forum for International S&T Cooperation,
 - having regard to the report of the Committee on Industry, Research and Energy (A9-0393/2023),
- A. whereas the freedom of scientific research, which is an essential element of democracy and one of the constituent parts of academic freedom, is under pressure in the Union and is gradually eroding ^(?), which is exemplified by the fact that on the Academic Freedom Index all Member States had a score above 0,85 on the index in 2008 while in 2022 some Member States have dropped significantly, the lowest score for 2022 being 0,34;
- B. whereas restrictions to the freedom of scientific research have negative impacts for the Union economy by stifling innovation, slowing scientific progress, and reducing Europe's global competitiveness;
- C. whereas erosion of the freedom of scientific research contributes to brain drain of top researchers, self-censorship among academics, less critical analysis on social and political issues, less interdisciplinary collaboration, less public discourse and debate;
- D. whereas job insecurity affects the ability to fully enjoy the freedom of scientific research; whereas thousands of researchers work with limited-duration project funding, by way of individual or project research grants, fixed-term employment contracts or by performing specific tasks as self-employed persons, and have poor job security and labour protection;
- E. whereas the Bonn Declaration includes a definition of the freedom of scientific research and recognises the responsibilities for both governments and research organisations to promote the freedom of scientific research;
- F. whereas defending the freedom of scientific research ensures that scientific research contributes to the public interest and contributes to development and improved living conditions for people;
- G. whereas the Bonn Declaration lacks implementation instruments at European level;
- H. whereas a solid body of case-law 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;
- I. whereas, in its judgement of 6 October 2020 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, illustrating the erosion of academic freedom in Hungary;
- J. whereas specific Union legislative acts limit the freedom of scientific research by submitting the academic sector to regimes primarily designed for regulating the internal market;
- K. 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 submit legislative proposals;
1. 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 in all scientific disciplines and the arts as enshrined in the Charter of Fundamental Rights of the European Union;

^(?) STOA study: State of play of academic freedom in the EU member states: Overview of de facto trends and developments.

^(?) Judgment of the Court of Justice of 6 October 2020, Commission v Hungary, C-66/18, ECLI:EU:C:2020:792.

2. Acknowledges the fundamental importance of freedom of scientific research in advancing our knowledge of natural and social phenomena, thereby contributing to the promotion of innovation, societal progress, and enhancing the overall wellbeing of Union citizens, both within and outside of the Union, and recalls that freedom of scientific research is a universal right and public good, to be applied to all scientific disciplines; underlines that in the global competition of research, development and innovation, freedom of scientific research is a prerequisite for attracting talent with competitive new ideas; regrets in that regard that the Bonn Declaration lacks concrete implementation at European level;

3. Acknowledges the profound impact of precariousness on the freedom of scientific research while precariousness in the sector persists; defends the labour rights of scientific researchers, enhancement of their careers, stable job contracts and access to comprehensive social protection systems; believes scientific researchers should be provided with quality jobs, decent working conditions, decent wages and healthy work places, including good work-life balance;

4. Highlights that equal opportunities, in particular those fostered by gender equality, are essential for the promotion of the freedom of scientific research as well as for ensuring that solutions to various challenges for advancing sustainable and equitable development incorporate diverse perspectives;

5. Emphasises the particularly precarious situation for early-career researchers and that, in order to increase the number of early-career researchers, clearer and more structured career opportunities should be established; stresses that this should also be guaranteed through fostering transparent recruitment procedures, free from any biases, and providing appropriate social security coverage to all researchers, including doctoral candidates who are engaged in remunerated research activity;

6. Notes that it is the management bodies of scientific research organisations that set those institutions' scientific research priorities; acknowledges that instances of degradation of democracy in scientific research organisations undermine the freedom of scientific research; emphasises therefore the importance of academic self-governance which should include the right of scientific researchers to have a say on the governance of their scientific institution, including on the labour conditions at the institution; emphasises that scientific researchers are entitled to all the rights under Article 12 of the Charter of Fundamental Rights of the European Union;

7. Believes that scientific research organisations should be encouraged, while fully respecting their institutional autonomy, to engage in international cooperation to strengthen bilateral and multilateral relations to further develop a strong science diplomacy component addressing the freedom of scientific research and possible consequences in case of breaches;

8. Insists that the Union should be a safe haven for all researchers at risk and should set up a European Fellowship Scheme for Researchers at Risk providing financial support for emergency placements of researchers at risk at European research organisations; believes that this Scheme should also be a solidarity mechanism to support European researchers that face breaches of their freedom of scientific research;

9. Recognises, in line with the Bonn Declaration, that freedom of scientific research stands for openness, exchange, excellence, internationalism, diversity, equality, integrity, curiosity, responsibility and reflexivity and that it is, therefore, a pillar of any democracy;

10. Takes note of the definition of the freedom of scientific research in Annex II, point (2) of the Commission proposal of 13 July 2023 for a Council Recommendation on a European framework ⁽⁴⁾ to attract and retain research, innovation and entrepreneurial talents in Europe;

⁽⁴⁾ COM(2023)0436.

11. Believes that freedom of scientific research must come with the responsibility to respect highest ethical standards and integrity in scientific research and should foster Open Science; emphasises that integrity of scientific research requires transparency of funding, and that the freedom of scientific research brings a responsibility towards society to provide this transparency; strongly supports, therefore, the common practice of transparent communication on sources of funding for research activities and calls on the scientific sector to safeguard this practice;

12. Emphasises the decisive role of a properly designed and well implemented enabling framework to effectively protect and promote freedom of scientific research throughout the Union, taking into utmost account of available public support to facilitate production, sharing and spreading of knowledge, as a public good, and to avoid any risk of interference or undermining of independence of scientific research;

13. Insists on the relevance of open knowledge to ensure the freedom of scientific research; calls for efficient and transparent creation of knowledge without artificial barriers hindering the access to information and its dissemination; estimates that sharing results of scientific research for non-commercial purposes must be protected by Union law and actively promoted; stresses that publicly funded scientific results must be published in open-access academic journals and the results must be easily accessible for everyone;

14. Is concerned about the recent backsliding of this fundamental right in the Union, which is essential for political freedom and social participation and threatens to undermine the development of a functioning and competitive European Research Area (ERA);

15. Notes that the Commission's communication of 30 September 2020, entitled 'A new ERA for Research and Innovation' confirms that the completion of the ERA requires the full respect of the freedom of scientific research, which includes, but is not limited to, non-interference in research agendas, institutional autonomy, and adequate funding as well as the means needed for disseminating research results;

16. Is deeply concerned that the Commission, despite its strong words in that communication, is failing to use its legal authority to protect this freedom in the Union; 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; is deeply concerned about the fact that freedom of research is under pressure to adhere to moral and political reservations;

17. Urges the Commission to take all steps within its power to protect and promote the freedom of scientific research in the Union and to ensure that research ethics and integrity are not compromised, including using its legal authority to prevent any further backsliding regarding this fundamental right; calls upon the Commission to actively promote and fund scientific pluralism by supporting projects across the full spectrum of scientific research;

18. 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, for example in the interest 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, do not unduly restrict the freedom of scientific research;

19. Stresses that the completion of the ERA requires the due respect and active promotion of the freedom of scientific research throughout the Union, and believes that any attempts to undermine or failure to actively promote this freedom negatively impacts the development of a competitive and innovative ERA; calls on the Member States and the Commission to further empower the scientific research community in their access, use and dissemination of any information relevant for its activity, including by leveraging open source digital tools;

20. Expresses its concern with regard to the Commission's failure to use its legal authority under the Treaties to protect the freedom of scientific research as one of the fundamental rights of Union citizens, which represent a serious abdication of its responsibility to uphold the rule of law in the Union, and calls on the Commission to take immediate action to remedy that situation;
 21. 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 duly respected in all Member States;
 22. Calls for the recognition of the need to mobilise additional public funds in order to finance independent scientific research, avoiding undue interference that could drive its ends or influence its methods or results;
 23. Calls on the Commission and Member States to promote public awareness of the importance of freedom of scientific research through education, public outreach, and support for science journalism;
 24. 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 recommendations set out in the Annex hereto, to guarantee, protect and promote this freedom at the level of research organisations and of researchers all along their careers;
 25. Instructs its President to forward this resolution and the accompanying recommendations to the Commission and the Council, and to the national parliaments.
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ANNEX TO THE RESOLUTION:

RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED**Defining the Freedom of Scientific Research**

1. The freedom of scientific research is a constituent part of academic freedom and scientific integrity 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 exercise of the freedom of scientific research, 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.

The freedom of scientific research may also be limited as a result of particular research circumstances or operational constraints. The freedom of scientific research must be carefully balanced with other legitimate interests, such as obtaining legitimate competitive advantages and intellectual property protection. Such limitations should not, however, contravene recognised ethical principles and practices, to which researchers have to adhere.

4. The proposal should build on the definition of the freedom of scientific research as set out in the Bonn Declaration, and under point 2 of Annex II of the proposal for a Council Recommendation on a European framework to attract and retain research, innovation and entrepreneurial talents in Europe.

Freedom of scientific researchers

5. Scientific researchers should be defined broadly in line with the proposal for a Council Recommendation on a European framework to attract and retain research, innovation and entrepreneurial talents in Europe.
6. The freedom of scientific research entails the right for individual researchers to freely define research questions, choose and develop theories, gather empirical material, and employ sound scientific research methods, to maintain scientific integrity, to challenge conventional wisdom, to publish and communicate freely, and to propose new ideas and theories as well as disseminate them freely.
7. The rights of individual researchers include at least:
 - (a) the right to associate in representative professional or academic organisations;
 - (b) the right to freely access public information, and the right to access private information needed for scientific purposes, which is to be balanced with the rights of information holders and the nature/sensitivity of information;
 - (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 right to speak freely and critically about work and politics of scientific research institutions and the results and data of their research, without fear of reprisal;
 - (e) the right to freely define research topics, to choose, develop and collect empirical material and to interact with other researchers.

8. Individual researchers should be able to enjoy those individual rights without fear of reprisal.

Rights and obligations of scientific research organisations

9. 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 and for the self-governing nature of research, 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 strike a careful balance in order to harmonise the individual rights with institutional autonomy.

10. Scientific research organisations should have the freedom to engage in international collaboration.

11. Within the framework of their institutional autonomy, research organisations have to provide transparent, fair, and excellence-based procedures for research careers.

12. Aspects to be considered for establishing institutional autonomy include organisational autonomy, financial autonomy, staffing autonomy and scientific autonomy.

13. 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 uniformly fulfilled. Therefore the definition of institutional autonomy in the proposal should not be static, but rather should allow adaptation to different national, regional and institutional contexts in particular by allowing for emphasis to shift between different aspects of institutional autonomy by incorporating a gradual rather than binary appreciation of the different aspects.

14. Institutional autonomy should come with an obligation for research organisations to provide some form of involvement of scientific researchers in decision-making.

15. That includes the rights to publicly comment on the governing of the organisation and system 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 Council ⁽¹⁾, 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

16. Governmental bodies in Member States, at all levels of government including Union institutions, agencies and bodies, should have the obligation to respect, protect, promote and ensure the freedom of scientific research, including institutional autonomy.

17. 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, as well as refrain from active or complicity participation in violations of the right.

18. 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.

⁽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).

19. 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, including institutional autonomy. This includes policies for sustainable research careers providing quality jobs at all career stages as well as long term, reliable and stable institutional financing.

20. 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, and potentially to disengage from cooperation with third parties not abiding by the same set of principles and values.

General considerations

21. The legislative proposal should reflect that the freedom of scientific research has to be considered comprehensively, including freedom from interference and ensuring that enabling framework conditions exist. 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.

Public authorities should have the responsibility to investigate alleged violations of the freedom of scientific research and to hold perpetrators of violations accountable.

22. The legislative proposal should include the creation of a monitoring system for reporting breaches of scientific research once identified.

23. The legislative proposal should recognise that while the freedom of scientific research has its independent value, within the framework of modern universities the freedom of scientific research is inseparable from the freedom to teach. This means that, given the legal base of the proposal and the core competences of the Union on research, and with due respect to the limited competences of the Union to legislate on education, the proposal should aim to protect the fullest possible scope of intramural dissemination.

24. 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.
