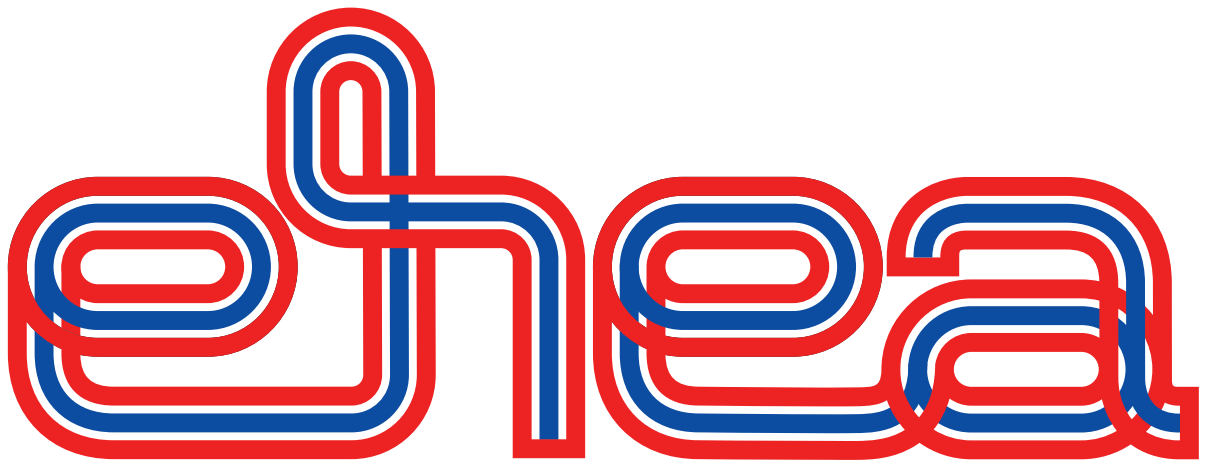




European
Commission

The European Higher Education Area in 2024

*Bologna Process
Implementation Report*



European Education
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CHAPTER 3: FUNDAMENTAL VALUES

The 2020 Rome Communiqué

‘The EHEA of our vision will fully respect the fundamental values of higher education and democracy and the rule of law.’ (Rome Communiqué 2020, p. 4)

Even if fundamental values have been present from the beginning of the Bologna Process as an underlying framework for the development of the European Higher Education Area (EHEA), the Rome Communiqué has for the first time specifically put forward the respect of fundamental values as the key element of the EHEA vision and made certain that they are perceived as universal, even if not absolute, values. Hand in hand with democracy and rule of law, fundamental values depict the European society we wish to live in – a society that is embedded in creativity, critical thinking, and free circulation of knowledge; and the opportunities offered by technological development for research-based learning and teaching.

The Ministers have asked the Bologna Follow Up Group (BFUG) to develop a framework for the enhancement of the fundamental values of the EHEA ‘that will foster self-reflection, constructive dialogue and peer-learning across national authorities, higher education institutions and organisations, while also making it possible to assess the degree to which these are honoured and implemented in our systems’ (Rome Communiqué 2020, p. 5). The Council of Europe’s Platform on Ethics, Transparency and Integrity in Education (ETINED) was also noted for its possibility for all EHEA members, consultative members and partners to cooperate to reach this goal.

Since 2020, the BFUG has overseen work to develop statements that ensure the common understanding and shared definitions of the fundamental values, as well as the first stages of developing an EHEA monitoring framework on implementation of fundamental values.

Chapter Outline

This chapter focuses on the presentation of the current state of affairs, regarding the six identified fundamental values of the European Higher Education Area. It starts by recalling the commitments from the Rome Communiqué, with references to fundamental values that have already appeared in previous Communiqués.

The first value addressed is *academic freedom*, the only fundamental value for which the EHEA has already adopted a definition and an accompanying statement in 2020.

This is followed by the fundamental values whose definitions and statements of common understanding are currently in the development phase: *academic integrity*, *institutional autonomy*, and *student and staff participation in higher education governance*. The section relating to the evaluation of the two fundamental values of *public responsibility for and of higher education* is not based on data collected through a specific part of the BFUG questionnaire, as the values themselves are too broad to be captured in specific indicators. The section rather represents a reflection on future avenues for monitoring and evaluation in a synthetic manner.

It is important to keep in mind that this chapter provides only an initial glimpse into the protection and promotion of fundamental values within the EHEA. More fully developed definitions should be adopted at the Ministerial meeting in Tirana in May 2024 and the aim is for a monitoring mechanism to be put into place in the forthcoming years. As the policy framework further advances, the future versions of this report will be more elaborate and detailed.

Introduction

Fundamental values have been at the core of the EHEA since the very beginning of the Bologna Process. These values were initially assumed to be commonly understood and respected, and it seemed as if there were no need for clear definitions or evaluation frameworks to ensure that they were respected. Fundamental values moved more explicitly into policy discussions in the years prior to the 2015 Ministerial Conference. The Yerevan Communiqué (2015) presented a commitment to ‘support and protect students and staff in exercising their right to academic freedom and ensure their representation as full partners in the governance of autonomous higher education institutions’ (Yerevan Communiqué 2015, p. 2). The commitment was repeated in the Paris Communiqué (2018) where the values were identified as follows: academic freedom and integrity, institutional autonomy, participation of students and staff in higher education governance, and public responsibility for and of higher education; committing to promoting and protecting them through intensified political dialogue and cooperation (Paris Communiqué 2018, p. 1).

Following the Rome Communiqué and the Statement on Academic Freedom adopted in 2020, this report is the first attempt within the EHEA framework to investigate the protection and promotion of all fundamental values. However, this exercise is necessarily limited. With neither adopted definitions of the fundamental values, nor a monitoring framework, the methodological approach has focused almost exclusively on data provided by the EHEA member states and concentrates on how values are referenced in legislation and policy documentation. The analysis herewith is based on the BFUG data collection unless explicitly stated otherwise.

The data collection privileged de jure aspects of the protection and promotion of fundamental values, and it is understood that the picture can be only partial until de facto elements are also considered. Additional reports and data provided by nongovernmental organisations and various stakeholders, especially on academic freedom, can enrich the findings. As the report is also limited in volume, data cannot be presented in a comprehensive manner, and it is strongly recommended to look further into the references for further reading. Furthermore, it is important to underline that this report does not claim that the data provided corresponds to the full scope of the EHEA understanding of fundamental values currently being prepared for adoption at the Tirana Ministerial Conference, and nor does it advocate for any specific definition. For each value presented only central concepts have been considered, and there remain more elements to take into account in the future.

As the statement on academic freedom argues, academic freedom is deeply interconnected with all other fundamental values. This principle applies to all the fundamental values. Thus any monitoring and evaluation approach must necessarily be holistic – recognising the interdependence between the values as a whole, as well as between each of them. This report can similarly only be understood as a whole, and not as a set of separate elements. Most importantly, the values need not only to be protected, but also promoted which demands an active engagement by all relevant stakeholders. Each of the sections attempts to identify both elements.

It is important to take note of the developments under the auspices of the BFUG regarding the fundamental values. The BFUG Working Group on Fundamental Values, continuing the work undertaken by the Task Force on Fundamental Values between 2018-2020, has prepared statements on academic integrity, institutional autonomy, student and staff participation in higher education governance and public responsibility of and for higher education to be submitted for adoption at the ministerial conference in Tirana, May 2024. The working group through its activities has also encouraged peer learning and exchange of data and research on fundamental values in the EHEA and as such has advanced the goals set in 2020.

Within the framework of the EU-funded project ‘New building blocks of the Bologna Process: fundamental values’ (NewFAV) coordinated by the Executive Unit for the Financing of Higher Education,

Research, Development and Innovation (UEFISCDI) of the Republic of Romania, in partnership with the Ministry of Education and Research of Norway, running from 2022 to 2024, further advancement on the development of a monitoring framework for future reporting and indicators on de jure and de facto implementation of fundamental values has taken place, including Peer Learning Activities (PLA) for all fundamental values. The NewFAV project team has produced two reports: 'Measuring fundamental values: indicators, tools and initiatives. A Mapping Report' (Matei et al., 2022) and 'Assessment Report' (Craciun et al., 2023). The reports concluded that the numerous existing indicators, tools and attempts at measuring fundamental values in higher education differ in nature, scope and usefulness and that none of them would be fully sufficient and appropriate for the needs of the EHEA. The project team proposed a Technical Monitoring Framework of Indicators (Craciun et al., 2023), together with a Piloting Methodology, and the final proposal will be based on the frameworks as shown in the following tables.

Table 1: Monitoring framework for rights/freedoms values

TYPE OF MONITORING		VALUES		
		Rights/Freedoms		
<i>De jure</i>		Academic freedom	Institutional autonomy	Participation of students and staff in university governance
Protection (<i>adequate, intermediary, inadequate</i>)	Outlook (<i>negative, unchanged, positive</i>)			
Promotion (<i>absent, limited, significant</i>) ⁽¹⁾				
<i>De facto</i>				
Infringements				
Threats				
Positive developments				

Source: NewFAV project.

Table 2: Monitoring framework for obligations/duties values

TYPE OF MONITORING		VALUES		
		Obligations/Duties		
<i>De jure</i>		Academic integrity	Public responsibility for higher education	Public responsibility of higher education
Protection (<i>adequate, intermediary, inadequate</i>)	Outlook (<i>negative, unchanged, positive</i>)			
Promotion (<i>absent, limited, significant</i>) ⁽¹⁾				
<i>De facto</i>				
Degree of fulfilment				
Threats				
Positive developments				

Source: NewFAV project.

The European Universities Association's Autonomy Scorecard has been identified as the only existing tool that fully complies with the proposed EHEA definition of institutional autonomy. However, from the perspective of the proposed Technical Framework, it is missing data on infringements and partially on threats, for the needs of de facto monitoring. It also only partially covers the promotion of commitments (Craciun et al., 2023).

Through cooperation between the Council of Europe (CoE) and the Global Observatory on Academic Freedom (GOAF), a working report was prepared with the aim of assessing the linkages between quality assurance mechanisms and monitoring of fundamental values. Unfortunately, only 17 responses were

⁽¹⁾ Promotion of fundamental values will also include significant elements of *de facto* monitoring.

obtained from the 50 EQAR registered agencies addressed in the study, and only preliminary findings could be made. Among the responses, the majority reported that inclusion of fundamental values into quality assurance processes should be led in the EHEA through inclusion in the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG), and subsequently in national policies. The agencies themselves should not take a lead in introducing fundamental values to quality assurance processes.

The current version of the ESG acknowledges that institutional quality assurance policy is most effective when it supports 'academic integrity and freedom and is vigilant against academic fraud' (ESG 2015, p. 11); and requires the participation of staff and students in quality assurance. However, quality assurance mechanisms and procedures have not been developed with fundamental values as priority objectives; hence quality assurance systems cannot currently be relied upon as a source of effective monitoring information.

As the work within the BFUG on the development of a technical monitoring framework on de jure and de facto implementation and promotion of fundamental values continues, the hope is that this chapter will also contribute to its successful realisation.

3.1. Academic freedom

In Rome 2020 the ministers of higher education in the EHEA adopted a statement outlining an agreed common understanding of academic freedom (Rome Communiqué 2020, Annex I). Academic freedom is defined as 'freedom of academic staff and students to engage in research, teaching, learning and communication in and with society without interference nor fear of reprisal'. Academic freedom is considered as 'an indispensable aspect of quality learning, teaching and research' and 'a necessary condition for higher education institutions to produce and transmit knowledge as a public good for the benefit of society'. It encompasses freedom of thought and inquiry, freedom to exchange openly, freedom to communicate the results of research, freedom to teach, freedom to research and freedom to learn (even if subject to administrative procedures and societal dialogue). However, it is framed by rigorous scientific and professional standards, respect for the rights of others, ethical conduct and the awareness of the impact of research on humans and their environment, and yet inseparable from security of employment for academic staff.

Various mapping exercises at global level have tried to identify if the concept of academic freedom is specifically mentioned in legislative frameworks. Among the most recent and significant of these are the Global Mapping of Regulatory Frameworks ⁽²⁾ (2023), of the Global Observatory on Academic Freedom (GOAF), or Academic Freedom in Constitutions Dataset (1789-2022) (Spannagel, 2023). The European University Association (EUA) 2023 edition of the Autonomy Scorecard included a report on 'Academic freedom in national legislation' based on the data provided by the EUA's collective members (national rectors' conferences). All of these sources represent an important contribution to the data presented in this report. The results of these research efforts show considerable diversity in the exact formulations and wordings of academic freedom across the globe, sometimes mentioning only 'freedom of science' or 'freedom of research', 'freedom of science and education' or 'freedom of scientific creativity', and illustrate the various ways in which academic freedom may appear in legislative frameworks.

⁽²⁾ <https://elkana.ceu.edu/global-mapping-regulatory-frameworks>

The Academic Freedom Index ⁽³⁾ providing data as recently as December 2022 gives an insight into the state of affairs for 179 countries and territories worldwide. It concludes that academic freedom is in decline for over 50% of the world's population, and stagnating in the majority of the countries. Nevertheless, the EHEA countries in most cases remain in the top tiers of the Index with only Kazakhstan, Ukraine, Hungary, Türkiye and Azerbaijan in the bottom 50% (AFI 2023, p. 3). This aligns with the 2018 Bologna Process Implementation Report which highlighted problematic cases in Hungary, Russia and Türkiye, together with Belarus (European Commission / EACEA / Eurydice, 2018 and Petrikowski and Becina, 2018).

The adoption of the Bonn Declaration (2020) within the European Research Area enhanced the increased concern for protecting and promoting freedom of scientific research, and complemented the work pursued in the EHEA context. The European Parliament's President Roberta Metsola also launched a new European Parliament Science and Technology Options Assessment (STOA) initiative 'The European Parliament Forum for Academic Freedom' in 2022, urged by the findings of the report 'State of play of academic freedom in the EU member states: Overview of de facto trends and developments' (Maassen et al., 2023). This report claimed that only in one EU member state, Hungary, structural de facto violations are taking place while in other EU member states there are individual threat incidents but no structural infringements.

Under the European strategy for universities there is also a concrete action to produce guiding principles on protecting fundamental academic values. This work is being based on the work of the EHEA and in synergy with on-going work under the European Research Area to protect the freedom of scientific research.

The European Students' Union (ESU) has raised serious concerns about the patterns of student repression in countries like Belarus, Russia, Türkiye and Hungary, and has launched important initiatives ⁽⁴⁾ for awareness-raising on academic freedom, institutional autonomy and academic integrity among students. A survey conducted by ESU 'Survey on Academic Freedom, Institutional Autonomy and Academic Integrity' (2023), where the majority of responses came from Hungary, Austria, Romania, France and the Czechia, concluded that small numbers of students feel pressured about their study choices, with significant numbers reporting that they have self-censored in fear of consequences from their higher education institutions if they expressed some of their personal beliefs.

It is also important to keep in mind that different instruments may take different perspectives, such as de facto or de jure, and produce different results: for example legal protection of academic freedom has in some studies been lowly ranked in Estonia, Malta, Slovenia or Sweden (Beiter et al., 2016), while in the Academic Freedom Index these were all considered among the countries with the highest level of academic freedom (Kováts and Rónay, 2023).

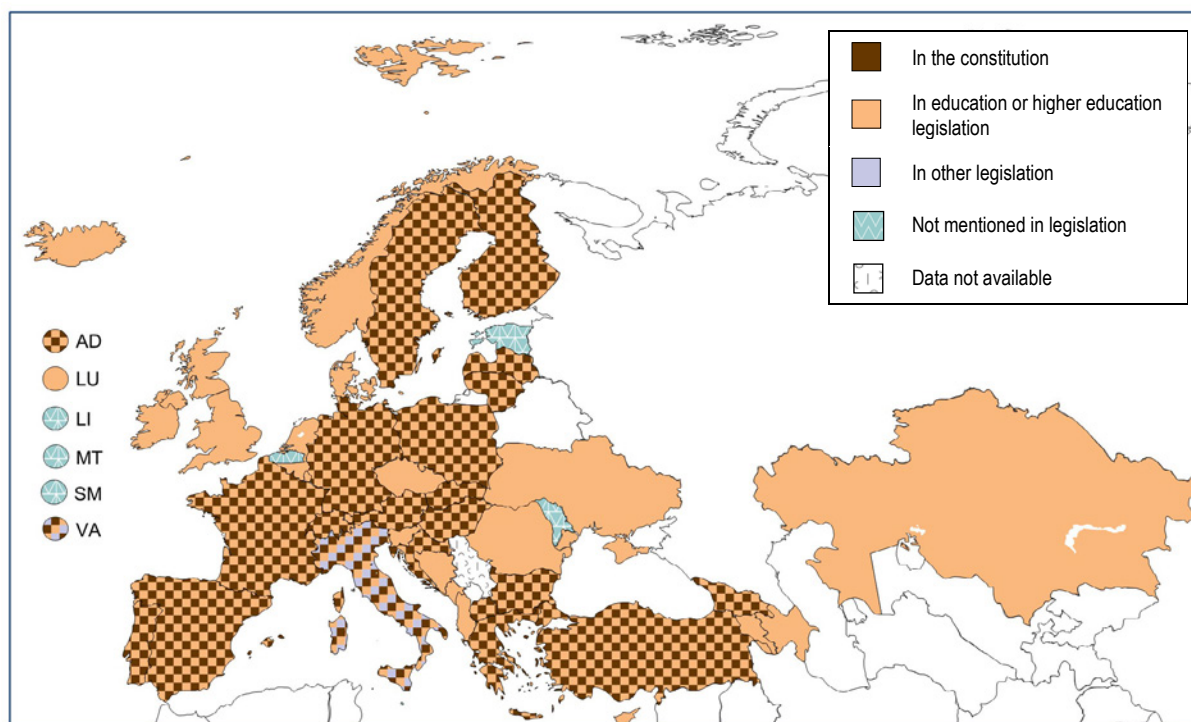
Based on the data provided by member states for this report, the majority of EHEA countries has the concept of academic freedom specifically mentioned in legislation. The only exceptions are: Belgium (Flemish Community), Estonia, Liechtenstein, Moldova, Malta, and San Marino. All other countries have the concept mentioned either in the constitution or constitution-level regulations; in education or higher education legislation or in other legislation, as shown in the map below – Figure 3.1.

Inclusion of the concept of academic freedom in the legislative framework does not mean that the formulation is in accordance with the EHEA definition. Neither does it follow that a country which does not mention academic freedom is necessarily worse in terms of protection and promotion from a de facto perspective.

⁽³⁾ <https://academic-freedom-index.net/>

⁽⁴⁾ <https://esu-online.org/projects/academic-freedom/>

Figure 3.1: Concept of academic freedom in national legislation, 2022/2023



Source: BFUG data collection.

Out of the countries which include the concept of academic freedom in their legislative frameworks, around half of them define it ⁽⁵⁾. There are quite diverse approaches to defining academic freedom, resulting in considerable variation in definitions, as well as important differences regarding the categories of the academic community that are covered by the concept (e.g. academic freedom may be considered more in relation to academic staff than to students). At this stage it is not known whether or how countries plan to align their definitions of academic freedom with the EHEA definition.

Some of the current definitions already encompass all the crucial elements, and some even go beyond. In Czechia, for example, participation of staff in governance is considered a constitutive element of academic freedom:

'The following academic freedoms and rights are guaranteed at the university:

1. Freedom of science, research and artistic creation and the publication of their results;
2. Freedom of teaching, consisting in particular in its openness to different scientific views, scientific and research methods and artistic trends;
3. The right to learn, including the freedom to choose the focus of study within study programmes and the freedom to express one's own views in teaching;
4. The right of members of the academic community to elect representative academic bodies;
5. The right to use academic insignia and to hold academic ceremonies"⁽⁶⁾'.

However, some national definitions remain limited. For example, in Azerbaijan the law focuses on freedom to teach and freedom to research but does not mention freedom to learn nor to exchange openly or communicate results of research ⁽⁷⁾. In Switzerland legislation guarantees only the freedom

⁽⁵⁾ The countries which define the concept are: Austria, Azerbaijan, Bulgaria, Switzerland, Czechia, Germany, Greece, France, Croatia, Ireland, Iceland, Italy, Luxembourg, Latvia, Montenegro, North Macedonia, Norway, Romania, Sweden, Slovakia, Türkiye, Ukraine, UK EWNI, UK Scotland, and Holy See.

⁽⁶⁾ https://www.msmt.cz/file/43791_1_2/

⁽⁷⁾ Law on Education, provision 33.2., <https://e-qanun.az/framework/18343>

of research and the freedom to teach, except for the Federal Institutes of Technology which are also granted freedom of learning ⁽⁸⁾.

In Greece, academic freedom applies only within the university premises ⁽⁹⁾, and the wording of the law in Romania seems to indicate the same (Education Law 1/2011, Article 304(3)) ⁽¹⁰⁾. While indeed campus integrity and the sanctity of academic freedom within the university premises are of utmost importance for both academic freedom, and student and staff participation in higher education governance, limiting academic freedom to particular geographical settings does not ensure the right to communication in and with society. Such definitions therefore reflect a narrower vision of academic freedom than the one adopted within the EHEA.

Academic freedom cannot be understood as a concept with no boundaries. In Germany, while proclaiming the freedoms, it is stated in Article 5(3) of the Grundgesetz (constitution) that 'The freedom of teaching shall not release any person from allegiance to the constitution' making sure that academic freedom is not understood in absolute terms and is limited by provisions or laws related to defamation, hate speech, or national security ⁽¹¹⁾. In Türkiye academic freedom does not include 'the liberty to engage in activities against the existence and independence of the State, and against the integrity and indivisibility of the nation and the country' (Article 130 of the Constitution).

Importantly, academic freedom cannot exist without the right for staff and students to express critical reflections on the university system(s) and higher education institutions themselves. In Croatia, the Act on Higher Education and Scientific Activity (2022) includes in Article 3 the 'freedom of expressing opinions about the system and institution in which they operate, the right to mutual cooperation and association, and the right to participate directly and indirectly in collegial management bodies and professional bodies of institutions in the system of higher education, scientific and artistic activities' ⁽¹²⁾.

Iceland is the only country making a reference to the exercise of academic freedom to teach regardless of the ownership of the higher education institution: 'The choice of research and teaching subjects in individual academic disciplines pursued at a higher education institution shall be free of the influence of the owners and financial backers of the institution' ⁽¹³⁾, and Luxembourg specifically identifies possible influences as 'political, economic, religious or ideological' ⁽¹⁴⁾. Freedom to learn, formulated as 'freedom of studies' is explicitly set out and defined in Latvia (Law on Higher Education Institutions, Article 6) ⁽¹⁵⁾ and also in North Macedonia (Law on Higher Education, Article 8).

The majority of the countries stated that academic freedom is indeed defined as a right, and not only a value. However, in the absence of any common definition of 'a right', it remains to be more fully evaluated in future monitoring exercises whether countries' definitions accord with the EHEA understanding.

Requirements for an external body to evaluate the exercise of academic freedom in higher education institutions seem to be in place in slightly less than half of the EHEA countries, as shown in the map

⁽⁸⁾ Federal Constitution Art. 20: https://www.fedlex.admin.ch/eli/cc/1999/404/en#art_20 ;
Higher Education Act Art. 5: https://www.fedlex.admin.ch/eli/cc/2014/691/en#art_5 ;
ETH Act Art. 5: https://www.fedlex.admin.ch/eli/cc/1993/210_210_210/en#art_5

⁽⁹⁾ Law 4957/2022, art. 4.

⁽¹⁰⁾ <https://legislatie.just.ro/Public/DetaliuDocument/125150>

⁽¹¹⁾ Artikel 5 Absatz 3 Grundgesetz: https://www.gesetze-im-internet.de/gg/art_5.html and https://www.gesetze-im-internet.de/hrg/_4.html

⁽¹²⁾ https://www.sabor.hr/hr/o-saboru/vazniji-propisi/ustav-republike-hrvatske-narodne-novine-broj-561990-1351997-81998-1132000_27/04/2023; https://narodne-novine.nn.hr/clanci/sluzbeni/2022_10_119_1834.html

⁽¹³⁾ <https://www.government.is/publications/legislation/lex/2017/11/22/Higher-Education-Act-No-63-2006/>

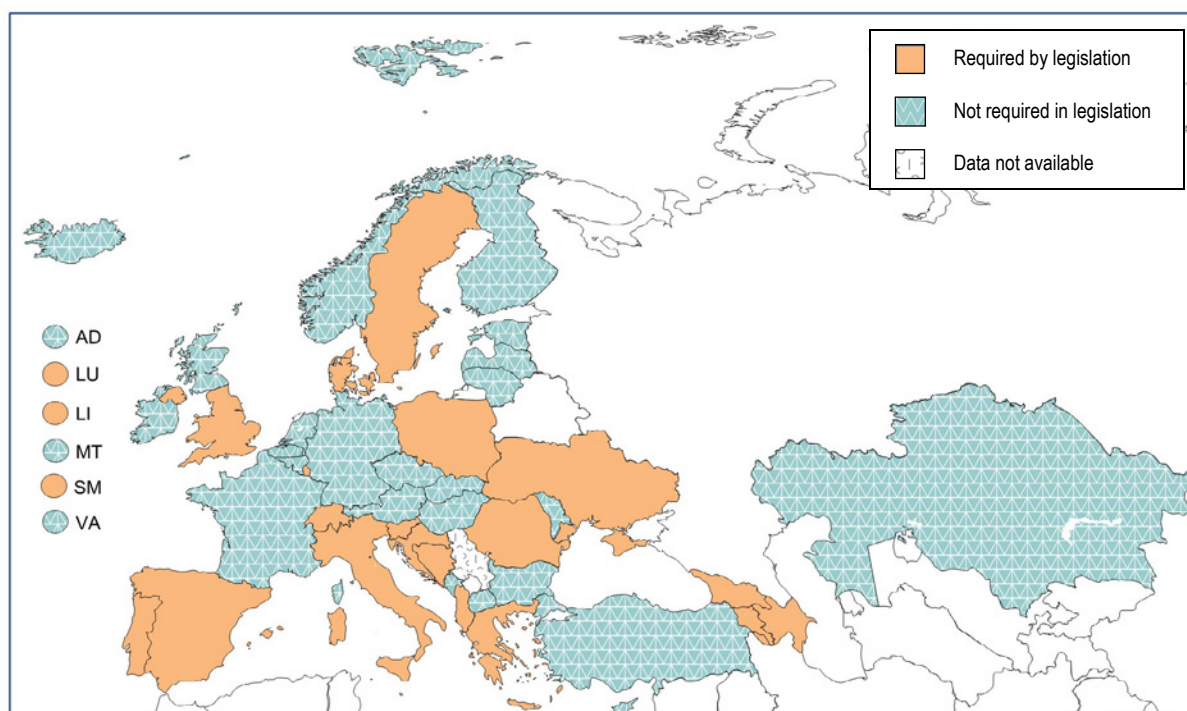
⁽¹⁴⁾ https://www.legilux.public.lu/eli/etat/leg/loi/2018/06/27/a587/jo#art_19;
https://www.legilux.public.lu/eli/etat/leg/loi/2018/06/27/a587/jo#art_1er

⁽¹⁵⁾ <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.343430>

below (Figure 3.2). When asked if there are any requirements for an external body to evaluate how the exercise of academic freedom is ensured in higher education institutions, countries indicate external quality assurance agencies as the bodies bearing this responsibility, with only Azerbaijan having another public agency –the Higher Attestation Commission – dealing with the task.

How and to what extent quality assurance processes integrate the evaluation of values depends on many features of the national context. It is, however, a significant finding that countries identify quality assurance agencies as the body where such work is taking place. The relationship of quality assurance and fundamental values is therefore important to consider throughout the EHEA. It is highly relevant to note that any promotion or protection mechanisms of academic freedom would need to include all the academic community, including students and staff, beyond the higher education institutions’ governing and management bodies or state representatives.

Figure 3.2: Requirements for evaluation of academic freedom in higher education institutions, 2022/2023



Source: BFUG data collection.

Promotion of academic freedom

Looking into the support and promotion mechanisms, only about a fifth of the EHEA countries ⁽¹⁶⁾ have developed guidelines and other mechanisms to support the exercise of academic freedom. While some confusion among the specificity of guidelines for academic freedom and guidelines for academic integrity appears in questionnaire replies, most countries did not report any top-level actions to support and enhance academic freedom. Among the exceptions, particular reports have been identified, notably in Sweden where a special report on promotion and protection of academic freedom by higher education institutions by the Swedish Higher Education Authority (UKÄ) is expected to be published in spring 2024; and in Norway, where a report on ‘Academic freedom of expression’ was published on 21 March 2022 ⁽¹⁷⁾.

⁽¹⁶⁾ Countries that have developed guidelines and other mechanisms to support the exercise of academic freedom: Switzerland, Germany, Georgia, Italy, Kazakhstan, Norway, Poland, Sweden, Türkiye, and UK (EWN).

⁽¹⁷⁾ Norwegian Ministry of Education and Research, Official Norwegian Reports NOU 2022:2, ‘Academic Freedom of Expression’, Accessible at: <https://www.regjeringen.no/contentassets/ec388f0a1dcc4a628fda2fe95e5ddb77/en-gb/pdfs/nou202220220002000engpdfs.pdf>

3.2. Academic integrity

Academic integrity is a fundamental value that has been coupled with academic freedom in EHEA communiqués, yet in reality remains a distinct value. While a statement to develop a common understanding of academic integrity is being developed within the EHEA, it is clear that the concept builds on elements such as honesty, transparency, fairness, trust, responsibility, respect and courage.

Academic integrity is clearly linked to academic freedom – a concept that comprises the responsibility for members of the academic community to act with integrity. Without rigorous adherence to research ethics and academic integrity, it would be impossible to establish much needed trust in science and education within our societies, and between diverse higher education systems. These principles need to be shared by the whole academic community, encouraging collegiality and solidarity. Academic integrity today is endangered by new challenges such as the development of artificial intelligence, and old challenges including cheating, misconduct, and corruption. Academic integrity also remains inseparable from, and interdependent on, the other fundamental values.

Efforts to develop better systems of student information have been taken forward through initiatives such as the ‘FraudS+ project – False Records, Altered Diploma and Diploma Mills Qualifications Collection’⁽¹⁸⁾. The project builds on the FraudSCAN database⁽¹⁹⁾, a tool that collects the scanned copies of fraudulent qualifications and qualifications issued by Diploma Mills. The database provides credential evaluators with a useful tool to carry out assessments and to prevent the circulation and the use of fraudulent qualifications, building on the expertise and experience of colleagues from ENIC-NARIC centres. It is accessible to staff of the ENIC-NARIC centres only.

Another important effort is being undertaken by the European Network for Academic Integrity (ENAI)⁽²⁰⁾, an association gathering higher education institutions and individual academics interested in maintaining and promoting academic integrity. They provide several free resources, including a glossary on academic integrity and a database of educational materials, as well as a victim support portal.

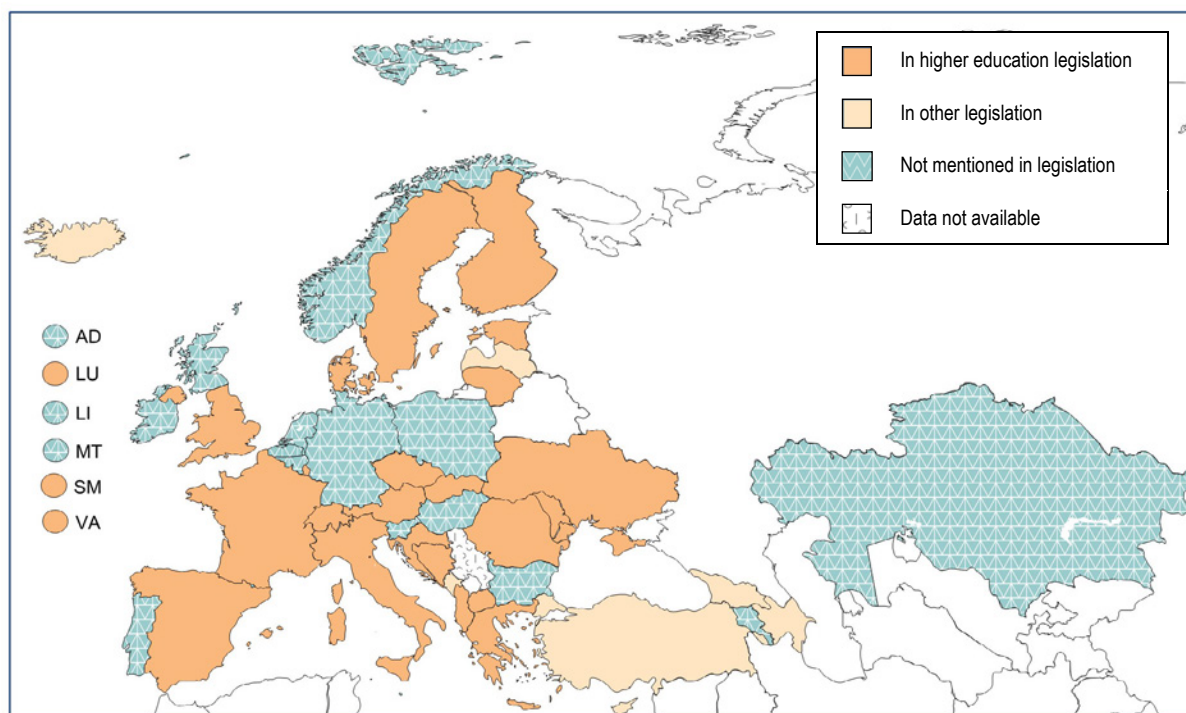
In an ESU survey in 2020, the majority of students reported that they are not aware either of their options in cases of academic misconduct, nor of their rights. Even if students do not have sufficient information on possible mechanisms to combat academic misconduct, in the majority of the EHEA member states, academic integrity is specifically mentioned in legislation and most notably, in (higher) education legislation, as depicted in Figure 3.3 below.

⁽¹⁸⁾ Co-financed in the framework of Erasmus+ programme of the European Union with project partners: ESU and ENIC-NARIC centers - CIMEA (Italy), Éducation International (France), Ständige Konferenz der Kultusminister der Länder in der Bundesrepublik Deutschland (Germany), Quality and Qualifications Ireland, Nuffic (the Netherlands), and Swedish Council for Higher Education.

⁽¹⁹⁾ <http://fraudscan.cimea.it/>

⁽²⁰⁾ <https://www.academicintegrity.eu/wp/>

Figure 3.3: Concept of academic integrity in national legislation, 2022/2023



Source: BFUG data collection.

In countries in which academic integrity is mentioned in legislation other than higher education legislation, this mostly refers to legislation regarding property rights and copyright laws, as in the case of Azerbaijan or Spain, where both higher education and other legislation refer to academic integrity. However, the topic of academic integrity including issues like plagiarism, fraud and contract cheating have been gaining traction in most EHEA countries. To date, however, Montenegro is the only country that has adopted a specific Law on Academic Integrity⁽²¹⁾, which it did in 2019.

Among the countries which mention academic integrity in legislation, it is defined in only one fifth. As much as these definitions diverge in volume and complexity, they all encompass issues of plagiarism and research misconduct. In some cases, like in Estonia and the United Kingdom (England, Wales and Northern Ireland), they focus more narrowly on student practices. France has one of the more comprehensive definitions and legislative frameworks, as a whole decree is dedicated to academic integrity in which the concept is defined as ‘the set of rules and values that should govern research activities to ensure that they are honest and scientifically rigorous’⁽²²⁾. Another example of a comprehensive definition comes from Latvia where academic integrity is understood as ‘performing academic work in accordance with the highest standards of professionalism and precision, objectivity, and veracity, principles of morality and ethics, and honesty, including the prevention of plagiarism, the provision of true information and precision in academic publications, and communication and publicity measures that constitute an image of the academic environment’⁽²³⁾.

⁽²¹⁾ Zakon o akademskom integritetu 2019, Republika Crna Gora. Available at: <https://www.gov.me/dokumenta/5825374f-0da5-41df-8d52-f9273d88a44b>

⁽²²⁾ Décret n° 2021-1572 du 3 décembre 2021 relatif au respect des exigences de l'intégrité scientifique par les établissements publics contribuant au service public de la recherche et les fondations reconnues d'utilité publique ayant pour activité principale la recherche publique. Available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044411360>

⁽²³⁾ Ministru kabineta noteikumi Nr. 26, Rīgā 2018. gada 9. janvārī (prot. Nr. 2 23. §), Darbības programmas "Izaugsme un nodarbinātība" 8.2.3. specifiskā atbalsta mērķa "Nodrošināt labāku pārvaldību augstākās izglītības institūcijās" pirmās un otrās projektu iesniegumu atlases kārtas īstenošanas noteikumi. Available at: [https://likumi.lv/ta/id/296514-darbibas-programmas-izaugsmes-un-nodarbinatiba-8-2-3-nbspspecifiska-atbalsta-merka-nodrosinat-labaku-parvaldibu-augstakas%20\(point%20\)20.1](https://likumi.lv/ta/id/296514-darbibas-programmas-izaugsmes-un-nodarbinatiba-8-2-3-nbspspecifiska-atbalsta-merka-nodrosinat-labaku-parvaldibu-augstakas%20(point%20)20.1)

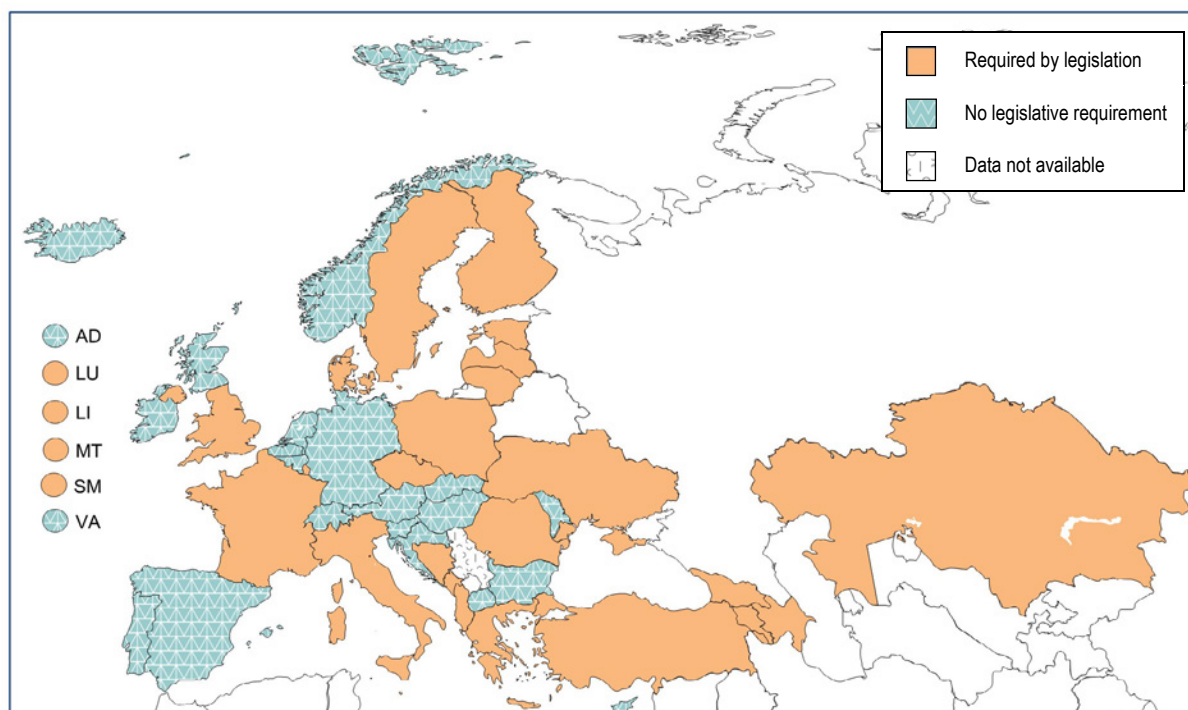
While in most countries, responsibility for compliance with academic integrity lies with individual academics – staff or students – higher education institutions are sometimes held responsible for oversight and monitoring. This is the case in Sweden, for example, where higher education institutions are required to ensure that “good research practices”, as they are called, are in place ⁽²⁴⁾.

In the case of the only EHEA country with a specific law on academic integrity, Montenegro, the definition understands integrity as academic behaviour in line with the principles of academic integrity, respect for legal regulations and aiming at truth. Beyond that, it outlines that it is behaviour ‘ensuring preservation of academic honour, professional dignity, quality of work and work results, spirit of equal cooperation with all participants of the academic process’ ⁽²⁵⁾.

Even if academic integrity is not defined in most of the EHEA countries, it seems to be clear what constitutes its breach. Academic fraud is most often considered a punishable offence in administrative terms. Only when it is combined with criminal offences does it become a punishable crime. When the acts in question remain within the scope of administrative offences, perpetrators can most usually face exclusion from studies or the working place; annulment of their degrees/diplomas/grades; and retraction of scientific works from being published.

About half of the countries have requirements for an external body to evaluate the exercise of academic integrity in higher education institutions - see Figure 3.4 below. Out of those, the majority indicates the external quality assurance agency as the responsible body. Another public agency or body was indicated only in the cases of Azerbaijan, Finland, Poland, Romania, Sweden and Türkiye. In Sweden, this is a recent development, as the Swedish National Board for Assessment of Research Misconduct (NPOF) was established only in 2020 as a central governmental agency, subordinate to the Ministry of Education and Research, with the task of investigating if any misconduct has taken place, based on the 2019 law on responsibility for good research practice.

Figure 3.4: Legislative requirement to evaluate academic integrity, 2022/2023



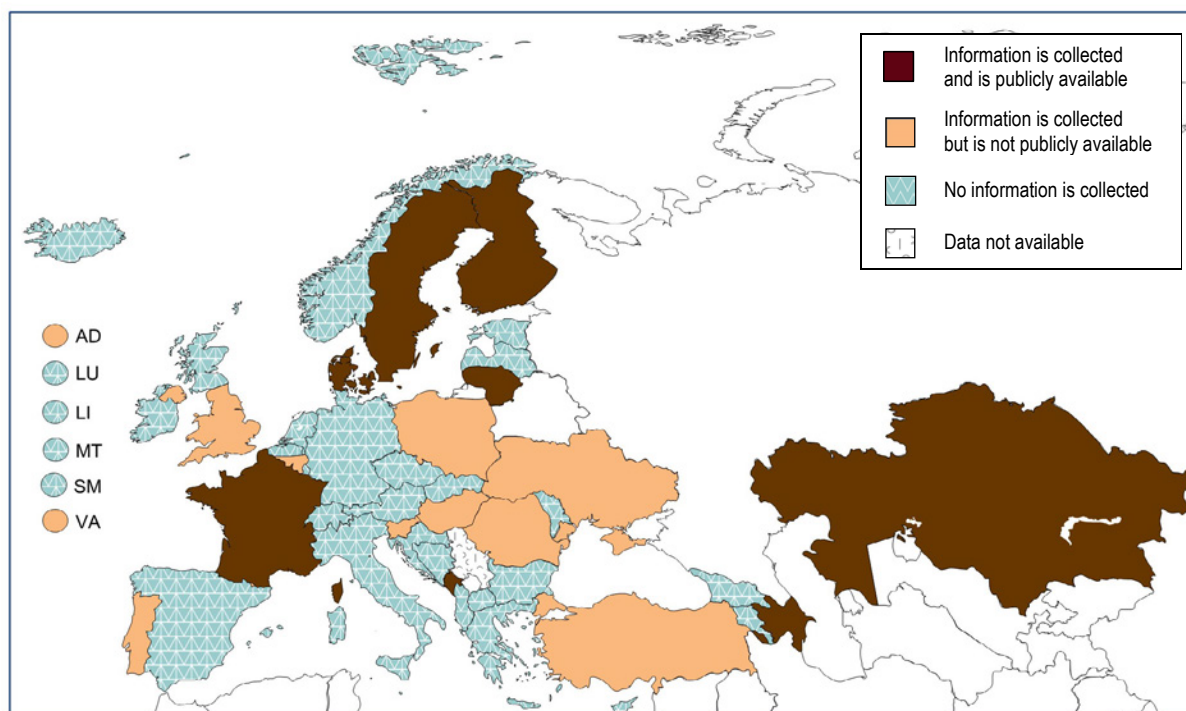
Source: BFUG data collection.

⁽²⁴⁾ Lag (2019:504) om ansvar för god forskningssed och prövning av oredlighet i forskning. Available at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2019504-om-ansvar-for-god-forskningssed_sfs-2019-504

⁽²⁵⁾ Zakon o akademskom integritetu 2019, Republika Crna Gora. Available at: <https://www.gov.me/dokumenta/5825374f-0da5-41df-8d52-f9273d88a44b>

Beyond evaluation, for successful monitoring and evaluation of academic integrity, transparency plays an important role. However, an overwhelming number of countries do not collect data on academic misconduct in higher education institutions, and among those that do, this data is not publicly available in many – see Figure 3.5 below. In the countries where data is publicly available, independent bodies are often charged with data collection and analysis. For example, in Finland, the National Board on Research Integrity (TENK) monitors responsible conduct of research and compiles statistics on violations which are then published in annual reports beginning in 2002 (also in English) ⁽²⁶⁾. In Denmark, annual reviews are published on the site of the Danish Board on Research Misconduct (only in Danish) ⁽²⁷⁾.

Figure 3.5: Data collection on academic misconduct, 2022/2023



Source: BFUG data collection.

Promotion of academic integrity

Top-level authorities require higher education institutions to offer training to staff and/or students on how to identify and reduce plagiarism, contract cheating and/or academic fraud in approximately a third of EHEA countries ⁽²⁸⁾. However, data collected for ESU’s 2024 edition of Bologna With Student Eyes, suggests that in only a handful of countries such training is systematically taking place in higher education institutions, while it often takes place in around half of the countries.

According to the responses to the BFUG data collection, Austria, Moldova, Malta and Romania require training only for students and on all three above mentioned topics, while other countries require training for both students and staff on all or some topics. Contract cheating seems to be the least offered and the least demanded training topic.

⁽²⁶⁾ <https://tenk.fi/en/tenk/annual-reports>

⁽²⁷⁾ <https://ufm.dk/forskning-og-innovation/rad-og-udvalg/Naevnet-for-Videnskabelig-Uredelighedelighed>

⁽²⁸⁾ Top-level authorities require higher education institutions to offer training to staff and/or students on plagiarism, contract cheating and/or academic fraud in: Armenia, Austria, Azerbaijan, Bulgaria, Czechia, France, Ireland, Iceland, Kazakhstan, Latvia, Malta, Moldova, Poland, Romania and Türkiye.

A little over half of the countries report that top-level authorities have developed guidelines for higher education institutions and/or other mechanisms to support higher education institutions with issues such as plagiarism, contract cheating and fraud. Both in guidelines and other mechanisms, the topic of plagiarism seems to have received the most attention. However, the 'Survey on Academic Freedom, Institutional Autonomy and Academic Integrity' by the European Students Union (ESU) (European Students Union 2023) with responses predominantly from Hungary, Austria, Romania, France and Czechia, claims that in almost a quarter of higher education institutions the mechanisms do not exist.

Among the various other mechanisms top-level authorities have implemented, the Czech ministry, through the Centralized Development Project, has supported joint projects of public universities which focused on topics such as cyber security, strengthening of ethical principles, or supporting the development of internal review boards. Denmark has adopted the Danish Code of Conduct for Research Integrity ⁽²⁹⁾, similar to the Charter of Scientific Integrity ⁽³⁰⁾ in France supported by the Office for Scientific Integrity, and the Code of conduct for scientific integrity ⁽³¹⁾ in Switzerland. In Ukraine extensive recommendations on academic integrity and plagiarism have been adopted ⁽³²⁾; and in Montenegro, in addition to the special law, in June 2021, the Ethics Committee adopted an Ethics charter ⁽³³⁾ which defines guidelines and principles for respect and preservation of academic integrity, aimed at the whole academic community.

Without academic freedom and academic integrity, the creation of knowledge within the collegial relationships of the academic community would be difficult to imagine. But for an academic community to flourish, it is absolutely necessary that it organises on the basis of institutional autonomy.

3.3. Institutional autonomy

Institutional autonomy is generally considered as a precondition for academic freedom (Popovic et al., 2022) and a prerequisite for universities to develop their institutional profiles and fulfil their missions. Beyond that, institutional autonomy is a significant element of the public responsibility for higher education as a primary aspect of public authorities' responsibility is to protect higher education institutions from any undue interference. Last but not least is the understanding that the principle of self-governance demands strong participation of staff and students, a fundamental value on its own. All the while, higher education institutions remain accountable to society in the exercise of their autonomy - an element of the value of public responsibility of higher education. Recognised in the Magna Charta Universitatum (1998/2020), and in the Council of Europe's Recommendation on public responsibility for academic freedom and institutional autonomy (2012), institutional autonomy should encompass the autonomy of teaching and research (academic autonomy), as well as financial, organisational, and staffing autonomy.

As previously outlined, the data collected for this report are limited. The focus is largely on the composition of governing bodies (organisational), which does not in any way imply that other aspects of institutional autonomy are less important.

⁽²⁹⁾ <https://ufm.dk/en/publications/2014/files-2014-1/the-danish-code-of-conduct-for-research-integrity.pdf>

⁽³⁰⁾ <https://www.hceres.fr/fr/CharteFrancaiseIntegriteScientifique>

⁽³¹⁾ https://www.swissuniversities.ch/fileadmin/swissuniversities/Dokumente/Forschung/Kodex/Layout_en_Web.pdf

⁽³²⁾ Recommendations on academic integrity for HEI 2017, https://zakononline.com.ua/documents/show/124272___124272; MESU letter regarding academic plagiarism 2018 <https://mon.gov.ua/storage/app/media/akredytatsiya/instrukt-list/1-11-8681-vid-15082018-rekomendatsii-shchodo-zapobigannya-akademichnomu-plagiatu.pdf>; MESU letters regarding academic integrity 2017 <https://mon.gov.ua/storage/app/media/npa/5a1fe9d9b7112.pdf>, 2020 <https://mon.gov.ua/ua/npa/do-pitannya-uniknennya-problem-i-pomilok-u-praktikah-zabezpechennya-akademichnoyi-dobrochesnosti>

⁽³³⁾ Etička povelja 2021, Republika Crna Gora. Available at: <http://etickikomitet.edu.me/post/139>

The European University Association’s Autonomy Scorecard 2023 ⁽³⁴⁾ looked into 35 higher education systems in Europe, and provided detailed information on organisational, financial, staffing and academic autonomy. There are certainly different approaches to reflecting on these dimensions of institutional autonomy, and their relationship with other fundamental values could sometimes be in tension. For example, while tenure is highly beneficial, and may even be considered a prerequisite for academic freedom, it could also be considered as lowering institutions’ staffing autonomy. These relationships must be kept in mind in the attempts to evaluate and monitor fundamental values from a holistic perspective.

Table 3 presents the changes in institutional autonomy across the four different dimensions of autonomy examined in the EUA report.

Table 3: System changes across autonomy dimensions

Autonomy dimension	Increased	Decreased	Stable
Organisational	EL, IE, LU, LV, NL, PL, SK 7	DK, EE, SI 3	AT, BE fr, BE nl, CH, CY, CZ, DE-bb, DE-he, DE-nrw, ES, FI, FR, HR, IS, IT, LT, NO, PT, RS, SE, TR, UK-ENG 22
Financial	CZ, PL 2	AT, LU, NL, NO, SK, TR 6	BE fr, BE nl, CH, CY, DE-bb, DE-he, DE-nrw, DK, EE, EL, ES, FI, FR, HR, IE, IS, IT, LT, LV, PT, RS, SE, SI, UK-ENG 24
Staffing	AT, FR, IE, LU, NL, PL, SI 7	HR, SK 2	BE fr, BE nl, CH, CZ, CY, DE-bb, DE-he, DE-nrw, DK, EE, EL, ES, FI, IS, IT, LT, LV, NO, PT, RS, SE, TR, UK-ENG 23
Academic	AT, BE nl, CZ, EL, FR, LT, LV 7	DK, EE, 2	BE fr, CH, CY, DE-bb, DE-he, DE-nrw, ES, FI, HR, IE, IS, IT, LU, NL, NO, PL, PT, RS, SE, SI, SK, TR, UK-ENG 23

Source: EUA Autonomy Scorecard 2023.

Notes:

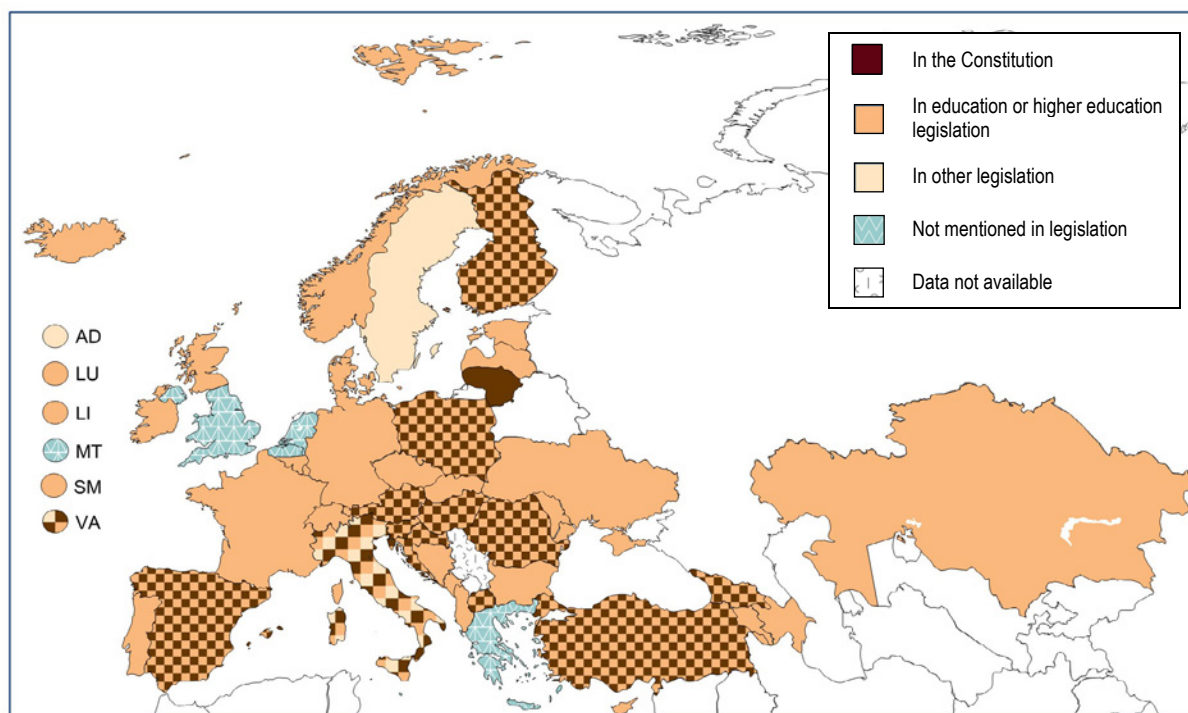
Three German higher education regional systems are included in the EUA project: DE bb Brandenburg; DE-he Hessen; DE-nrw North Rhine Westphalia.

The EUA data shows that the situation remains stable in most of the researched countries across these four autonomy dimensions. Decreased autonomy has been identified only in a small number of cases – Denmark, Estonia and Slovakia declining in more than one dimension. Increased autonomy across more than one dimension has been noted in eight countries: Austria, Czechia, France, Greece, Ireland, Luxembourg, the Netherlands and Poland.

In almost all EHEA countries, the concept of institutional autonomy has specifically been mentioned in legislation, as shown below in Figure 3.6. The exceptions are only Belgium (Flemish Community), Greece, Malta, the Netherlands and the United Kingdom (England, Wales and Northern Ireland). However, although institutional autonomy is not mentioned in Greek legislation, the related concept of self-governance is mentioned both in the Greek Constitution (art. 16) and in the higher education law 4957/2022, art. 3, par. 1.

⁽³⁴⁾ <https://eua.eu/resources/publications/1061:university-autonomy-in-europe-iv-the-scorecard-2023.html>

Figure 3.6: Institutional autonomy in national legislation, 2022/2023



Source: BFUG data collection.

Out of the countries that mention the concept, the majority also defines it. In most of these cases simple definitions are provided: stating higher education institutions' independence from executive public authorities, political or other external influences, while remaining bound by the constitutional and legal order of the country in question. Within the definition of institutional autonomy four countries – Bulgaria, Croatia, North Macedonia, and Slovakia – specifically include campus integrity, which means that state security officials, such as police or army, are not allowed onto campus without an explicit request from the higher education institution's leader.

In Romania, university autonomy is exercised only under the condition of higher education institutions assuming public responsibility. In Armenia, principles of self-management and collegiality are highlighted, staffing autonomy is directly proclaimed, as is autonomy in student recruitment, self-governance, teaching, financial matters (except for tuition fees determined for certain categories of students), and organisational autonomy. In Czechia, autonomy is elaborated through specific bullet points, encompassing internal organisation; admission procedures; programmes' design; quality assurance; staffing autonomy; international cooperation and financial autonomy.

Such extensive definitions are also noted in the case of Croatia, which demands freedom from not only political pressure but also economic power, while reminding higher education institutions of their responsibility towards the social community; or in Latvia, North Macedonia, Slovenia, and Slovakia where also political activities of political parties and political movements are not allowed. This is an example where the tension between fundamental values can be noticed, as restrictions on political activities can raise questions about academic freedom and/or staff and student participation in higher education governance.

Participation in system-level policymaking in higher education

A large majority of countries have a legal requirement for the ministry in charge of higher education to be included in policymaking, while most other countries point out that ministry representatives are usually involved, even if there is no legal requirement. The only exceptions are Norway, San Marino and the United Kingdom (England, Wales and Northern Ireland).

In almost half of the countries surveyed, the law also demands the involvement of a ministry or ministries other than the one in charge of higher education. If added to the cases in which this is common practice but not required by law ⁽³⁵⁾, it again means that a majority of EHEA countries involve other relevant ministries in national higher education policymaking.

Quality assurance and accreditation bodies are less often required by law to be included in policy making endeavours at national level. Again, however, if the countries where these bodies are usually involved even if not required by law are included, quality assurance and accreditation bodies actively participate in the national policy making processes in a substantial majority of countries.

For associations and networks of higher education institutions, including national rectors' conferences, legal requirements exist in approximately one third of countries, but they are also usually included in another 28 countries. This is not the case only in Kazakhstan, Montenegro, San Marino and the United Kingdom (England, Wales and Northern Ireland).

Labour market and employer representatives together with civil society and non-governmental organisations are required to be included in less than a third of countries. In approximately 40% of the countries, these organisations are usually included. In Luxembourg it is required by law only for labour market and employer representatives; and in Belgium (French Community) and Sweden it is only civil society. In Croatia, civil society and non-governmental organisations are usually included even if not required by law, and that is the same case for labour market organisations in Estonia, Germany, Ireland, Lithuania and Moldova.

In a handful of countries, other actors are legally required to be included. They are usually included only in five: Andorra, Finland, Iceland, Ireland and Latvia. Out of those, in most of them indication of 'other' refers to all interested citizens, which is the case in Armenia, Switzerland, Hungary and Croatia. In Spain, France and Ukraine other actors refer to representatives of regional governments and/or local authorities. In Andorra and Finland the category refers to national or international individual experts.

Participation in higher education institutional governance structures

The structures of governing bodies of higher education institutions reveal crucial information about the state of institutional autonomy. In approximately 60% of cases government/top-level authority representative(s) are not included. In the minority of cases where they are, there is a specific requirement set out by law.

As student and staff participation is analysed as a separate value here the focus is on all other actors.

Complexity arises regarding representatives such as employers and others – see Table 3.1 in Annex. For over half of the countries, there is a legal requirement for employer representative(s) to be included in governing bodies. In several countries, the inclusion of other representative(s) is required by legislation, or if not, they are nevertheless usually included. In Andorra a member representing private entities collaborating with the university is included, while PhD students are represented in various Lander in Germany. In Denmark, regional and local governments appoint board members for

⁽³⁵⁾ Countries in which there are no legal requirements for other ministries to be involved but they are usually included: Albania, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Czechia, Germany, Estonia, Finland, Italy, Luxembourg, Latvia, Moldova, North Macedonia, Malta, the Netherlands, Sweden, Slovenia, and Holy See.

professional bachelor higher education institutions, and similarly in Croatia members from the local community – county or city, or ministry – are required by law in universities of applied sciences, or similar professional higher education institutions.

In a small number of countries, other groups are required by law to participate in higher education institutions' internal steering bodies, or in three countries (Holy See, Montenegro and Ukraine) they are not required but usually participate. In Spain this refers to society representative(s) through the Social Council, in France it refers to local authorities and in Montenegro it is non-governmental organisations. In Poland, it is expected that 50% of the higher education institution's council should be comprised of external members.

None of the systems specify only the proportion of staff. However, eight systems focus only on the proportion of students, while 28 specify both student and staff proportions. Twelve systems have no legal requirements in this respect.

Among the countries which specify the proportions of students and/or staff, proportions vary largely – mostly according to the type of the governing body in question, as well as the type of higher education institution. Universities and universities of applied sciences for example tend to have diverse governance systems often with different levels of student and staff representation. Overall staff have larger numbers guaranteed than students. The systems with the highest levels of student representation in governance bodies are Belgium (French Community) and Czechia.

Contributing to all issues and participating in decision-taking

Certainly, participation in governance bodies alone does not reflect the full scope of the involvement of different actors. It is equally important to understand if all members can actually contribute to all issues, or only specific ones – usually the ones directly related to their assumed field of interest. In the large majority of EHEA countries, the legislation stipulates that all members of governing bodies have full rights to contribute to all issues; and even in systems where this is not legally required, it usually happens. Poland and Latvia are the only two countries that indicated that it is not legally required for all members to be able to contribute on all issues and that this usually does not happen.

While contribution to all issues is a widespread right for all members of governing bodies, the situation is somewhat different when it comes to taking decisions on all issues. This is not required and usually does not happen in Switzerland, Germany, Denmark, Greece, Liechtenstein, Latvia, Norway and Poland. In Poland, not all stakeholders can take decisions on professors' appointments, while in Switzerland decision-taking rules are in the hands of the cantonal authorities overseeing higher education institutions. In Denmark, the Chairman of the Board has specific exclusive responsibilities, including dialogue with the minister and responsibility for property issues; and vice-rectors participate in the Senate without voting rights. In Liechtenstein the Senate does not have full rights to take decisions on all issues; in Luxembourg the University Rector and the Government Commissioner have consultative rights in the Governance Council; and in Sweden students can participate in some, but not all, decisions that have a bearing on their courses or programmes or the situation of students.

Deciding the responsibilities of governing bodies

In approximately 40% of the EHEA systems, higher education institutions decide on the responsibilities of their governing bodies, yet within a legislative framework that sets some boundaries (see Table 3.2 in the Annex). Iceland is the only country where the higher education institutions' governing body enjoys absolute autonomy on this issue. In all other countries, it is defined by legislative frameworks – at least for the publicly funded institutions.

Appointments and dismissals

Appointment and dismissal of higher education institution leaders (Rectors or equivalent) is an important and complex aspect of institutional autonomy represented in Tables 3.3 and 3.4. in the Annex. Appointment is the responsibility of the higher education institution's highest governing body, or an internal higher education institution steering body in a little over half of EHEA systems. Albania and Slovenia indicate that it is the responsibility of staff and students, although it remains unclear within which framework this takes place. In the rest of the countries, it is the government or public authority that makes the decision. In some countries this is done together with higher education institutional bodies or other actors. However, in Azerbaijan, Moldova and Sweden it is an exclusive responsibility of public authorities.

For dismissal, the situation is only marginally different. In slightly less than half of the countries, the higher education institutions' highest governing body is responsible for decisions, and in several others, responsibility lies with an internal higher education institution steering body. Staff and students were indicated as having a particular role in Italy, Romania and the Holy See. The government/public authority is involved in dismissal decisions in around a fifth of EHEA systems, but only has an exclusive responsibility for dismissal in Albania, Azerbaijan, Belgium (French Community), Bulgaria, and Sweden. Public authorities therefore more frequently play a role in dismissal than they do in cases of appointment.

Whenever other actors are involved, this usually refers to specific higher education institution bodies: in case of dismissal, for example, in Greece it is the Disciplinary Board; in France it is the academic council consisting exclusively of teacher-researchers; or in the Netherlands it is the Supervisory Board of higher education institutions.

The situation regarding the appointment of higher education institutional faculty leaders (Deans or equivalent), remains largely similar with the exception of a (much) lower level of involvement of government/public authorities. For appointment of deans in the large majority of cases it is higher education institution bodies that are responsible: either the higher education institutions' highest governing body or an internal higher education institution steering body. Together with these bodies, or through them, staff are responsible in Italy and the Holy See. It is exclusively a staff responsibility in the case of Azerbaijan, and a shared responsibility of staff and students in Albania and Slovenia. Belgium (French Community) is the only system where the appointment of deans is exclusively a responsibility for the government/public authority. As with appointment of Rectors, some countries also indicated the involvement of other actors.

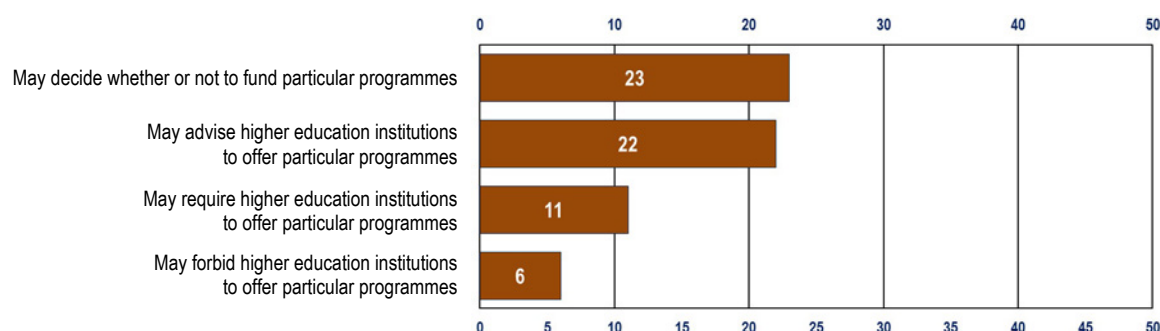
Higher education institutional bodies also take a leading responsibility in the case of dismissal of higher education institution faculty leaders. The highest governing body and internal higher education institution steering bodies again share responsibility. Azerbaijan is the only system where staff are entirely responsible for the dismissal of deans. The government/public authority is jointly responsible with institutional bodies in Sweden, and exclusively in Albania and Belgium (French Community). In a small number of countries, it is exclusively another body that is responsible. For example, in Georgia it is the faculty council; in Andorra, Finland and Türkiye it is the Rector; and in Greece it is again the Disciplinary Board. For all these procedures there are usually multiple bodies and levels of authorities involved, so this is necessarily a simplified overview.

Responsibility for higher education programmes

Beyond the appointment and dismissal of higher education institutions' leaders, an important element to establish the state of institutional autonomy is the extent of governments'/public authorities' influence in the programme offer. This is increasingly important in the contemporary world where scientific disciplines have been prohibited, and certain departments closed for ideological reasons for a perceived 'lack of profitability'. The most direct influence on study programmes is certainly reflected in situations where the government/public authority can require or forbid particular programmes.

The histogram below (Figure 3.7) sets out the main roles played by governments/public authorities in relation to higher education institutions' programmes offers.

Figure 3.7: Government/public authority role in higher education institutions' programme offers, 2022



Source: BFUG data collection.

The two most frequent occurrences are for the government/public authority to be able to advise higher education institutions to offer particular programmes, and/or to have a decisive influence through funding decisions. This can be understood as the exercise of soft power over higher education institutions and suggests that attention is paid with regard to boundaries of institutional autonomy.

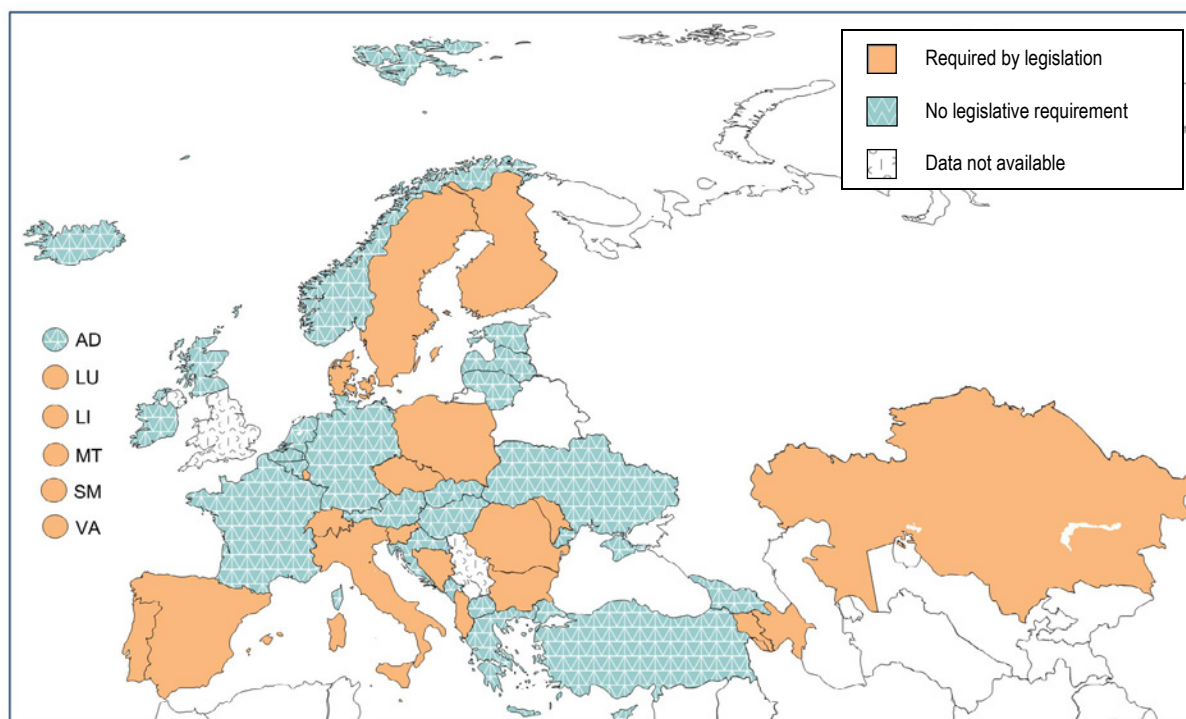
It is only in a few countries that governments/public authorities maintain the power to require higher education institutions to offer particular programmes, again suggesting that government influence may generally be exercised through more persuasive approaches. Only six systems acknowledge that the government has the power to forbid higher education institutions from offering particular programmes.

It is noticeable that certain de jure framework allowing governmental interference in the programme offer does not necessarily equate to a low level of institutional autonomy. For example, in the case of Austria, the government has the possibility to require higher education institutions to offer particular programmes, yet Austria still scores very highly (85% – 10th place) in the EUA Autonomy Scorecard ranking of 2023 for academic autonomy. Academic autonomy, as defined by EUA, encompasses capacity to decide on overall student numbers; ability to select students; ability to introduce programmes; ability to terminate programmes; ability to choose the language of instruction; capacity to select quality assurance mechanisms and providers; and ability to design content of degree programmes. In many countries this is considered a delicate balancing act. In Spain, for example, higher education authorities can make proposals regarding the programmes' offer, but the final decision remains with universities.

Evaluation of institutional autonomy

Figure 3.8 (below) shows the systems where there is legal requirement for institutional autonomy to be evaluated.

Figure 3.8: Evaluation of institutional autonomy in higher education institutions, 2022/2023



Source: BFUG data collection.

Approximately half of the countries require external bodies to evaluate the exercise of institutional autonomy in higher education institutions. In almost all these cases, this demand is placed on an external quality assurance agency, although no information was gathered on how this demand is formulated and exercised in practice.

Finland is the exception, both for academic freedom and institutional autonomy, as there is no specific body to evaluate these issues, but rather the Chancellor of Justice of the Government of Finland serves as a supreme guardian of the law, overseeing the legality of all activities under the responsibility of public authorities, including higher education institutions. The Parliamentary Ombudsman also plays a role in supervising and promoting legality and implementation of fundamental and human rights. As such, these bodies serve as guardians of institutional autonomy, even if not being tasked with undertaking specific monitoring.

Higher education institutions in most EHEA countries have the possibility of legal redress in cases of infringement. However, this does not mean that there exist external bodies which are specifically charged for the monitoring and evaluation of some or all the fundamental values.

3.4. Participation of students and staff in higher education governance

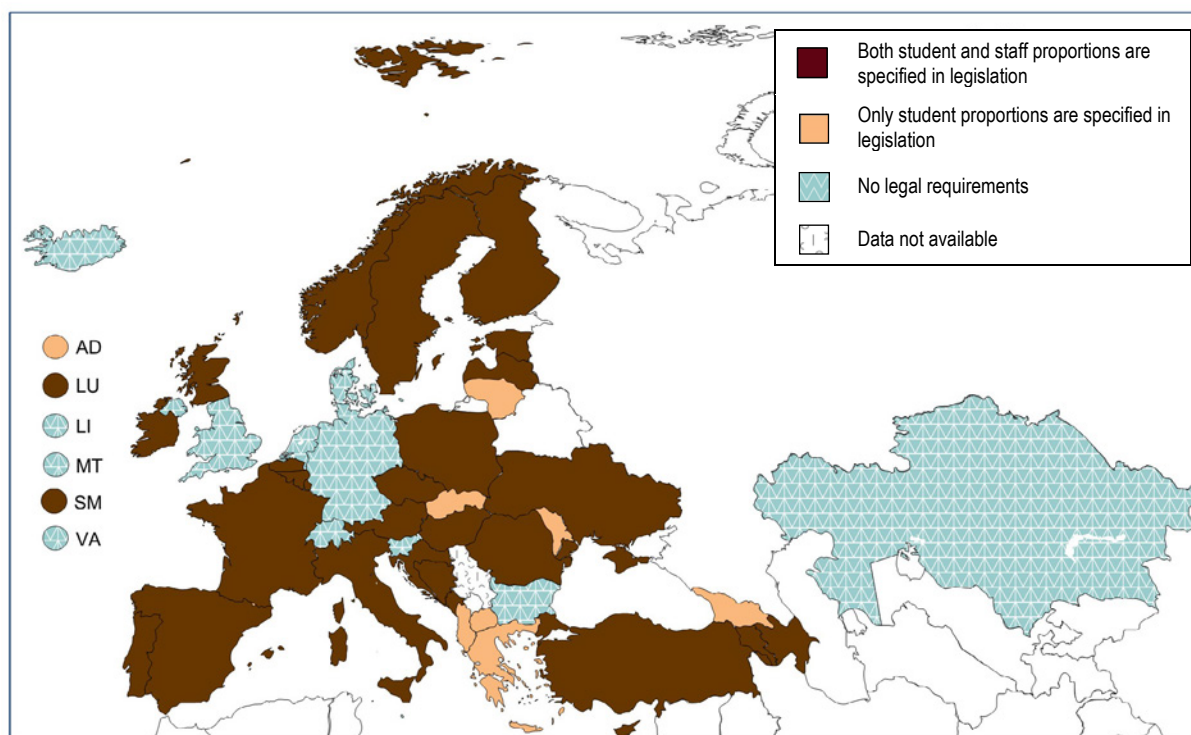
Student and staff participation is at the core of the principle of self-governance, one of the elements of institutional autonomy. It is also a value embedded in the idea of sense of ownership, accountability and responsibility of the members of academic community. Closely intertwined to academic freedom, exercising the fundamental value of student and staff participation enables students and staff to organise without fear of reprisal, pressure or undue interference from public authorities, governing bodies or other stakeholders, and to actively participate in both decision-making and decision-taking processes. Democracy within the governance structures of higher education institutions, as well as student and staff organisations, is a key prerequisite for the successful development of democratic citizens and the exercise of public responsibility for higher education.

Too few students claim that they are fully aware about the representative student bodies' structures, funding, functions and (s)election processes of their representatives, and even less about overall funding and governance structures of higher education institutions. ESU's publication *Bologna with Student Eyes 2020* (European Students Union, 2020) reported some worrying trends regarding the strength of student voices within higher education institutions and underlined the need to strengthen the principle of collegiality. Election and appointment processes within the representative organisations and governance bodies play a very significant role: students and staff can indeed be present in all relevant structures, but if they are not democratically elected, independent, and autonomous the situation cannot be considered as satisfactory in terms of democratic legitimacy. Moreover, financial independence and sustainable funding play a key role in ensuring independence among students and staff representatives.

Student participation in higher education institutions' governance structures has evolved significantly across Europe after decades of student activism seeking student representation (Klemenčič, Bergan and Primožič eds., 2015). Now, student participation is required by legislation in nearly all countries. The clear exception is the Netherlands, where student participation is not required by legislation, and students are usually not included in higher education institutions' governing bodies. In Kazakhstan and the Holy See, student participation is also not required by legislation, but in these countries students are usually included. The situation is identical for staff representative(s).

In the important interconnection of institutional autonomy with the fundamental value of student and staff representation in governance, the map below (Figure 3.9) considers the specificity of legislation regarding the proportions of students and staff in higher education institutions' governing bodies.

Figure 3.9: Required proportions of students and staff in higher education institutions' governing bodies, 2022/2023



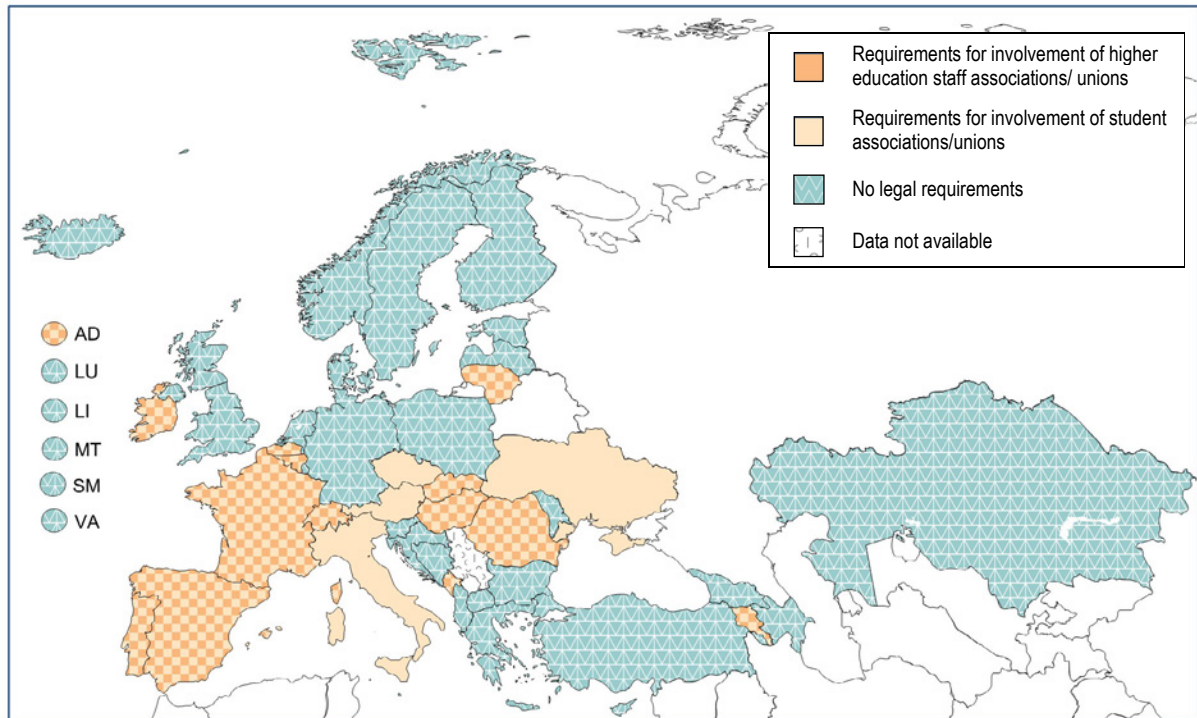
Source: BFUG data collection.

None of the systems specify only the proportion of staff. However, eight systems focus only on the proportion of students, while 28 specify both student and staff proportions. Twelve systems have no legal requirements in this respect.

Among the countries which specify the proportions of students and/or staff, proportions vary greatly – mostly according to the type of the governing body in question, as well as to the type of higher education institution. Universities and universities of applied sciences for example tend to have diverse governance systems often with different levels of student and staff representation. Overall staff have larger numbers guaranteed than students. The systems with the highest levels of student representation in governance bodies are Belgium (French Community) and Czechia.

The previous sections point to insufficient attention being given to the academic freedom of students, while infringements of academic integrity are most often considered as infringements made by students, notably through practices such as plagiarism and cheating. When developing national higher education policy, various actors may be included. Figure 3.10 outlines the requirements related to student and higher education staff associations and unions.

Figure 3.10: Legal requirements for staff and students to participate in national HE policymaking, 2022/2023



Source: BFUG data collection.

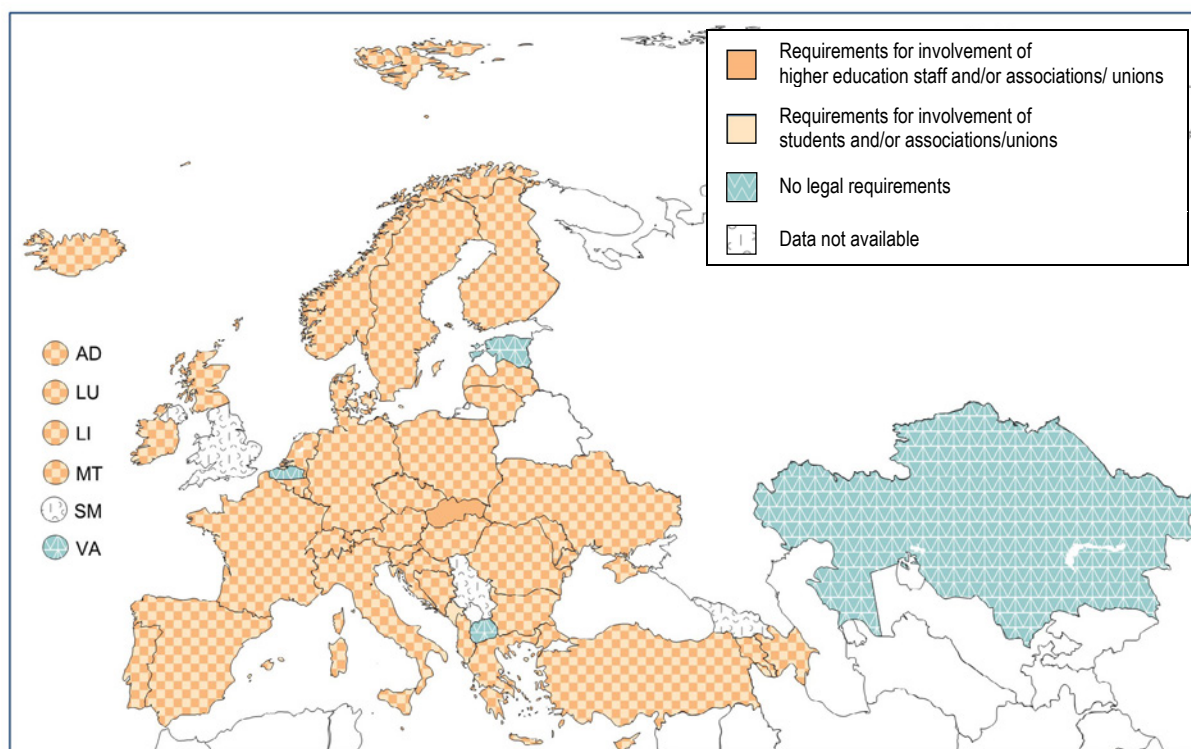
Just over a third of systems have legal requirements in place to include student and/or staff representatives in higher education policymaking. In most of these countries, both student and staff associations/unions are included. The exceptions are Austria, Czechia, Italy and Ukraine where only student associations/unions are included by law. These countries report, however, that higher education staff associations and unions are usually included.

In almost 40% of the countries, although not a legislative requirement, student associations and unions are usually included in national policymaking. However, according to national responses, students and staff are less frequently included in national policy development than in higher education institutional governance.

Participation in institutional steering bodies

Figure 3.11 shows the EHEA higher education systems where legal requirements are in place to ensure the participation of higher education staff and/or associations/unions and students/student unions in institutional internal steering bodies.

Figure 3.11: Legal requirements for staff and students to participate in HEIs' internal steering bodies, 2022/2023



Source: BFUG data collection.

Legal requirements for student and/or student union, and staff and/or staff trade union representatives to be included in higher education institutions' internal steering bodies are in place in 39 systems. Moreover, even when not required by law, student and/or student representatives usually participate (Belgium – Flemish Community, Estonia, Kazakhstan, North Macedonia, and Holy See). This is the same for staff/staff trade union representatives.

Students and staff are overwhelmingly present in the higher education institutions' internal steering bodies. The decision-making responsibilities of these internal steering bodies are most frequently set through legislation (in close to half of the EHEA systems). In about a third of systems, it is both the legislators and the institutions' themselves that determine these responsibilities. For approximately 20% of the countries, this is an exclusive competence of higher education institutions' internal steering bodies. In Switzerland the situation varies from canton to canton; while in Estonia it varies depending on the type of decisions being made.

Malta, Poland, Portugal, Sweden and Türkiye clearly state the decisions in which staff and students cannot participate. In France, students cannot participate in decisions regarding employment of teacher-researchers. Students in Poland are not allowed to take decisions regarding academic degrees. In Türkiye student participation remains restricted to 'student problems of the faculty, conservatory, or vocational school it represents'.

Half of the countries give the right to students and staff to participate in all decisions: However further exploration would be required to understand if that right means that students and staff fully participate in decision-taking.

3.5. Public responsibility for and of higher education

The two last fundamental values were not formulated as specific sections in the BFUG questionnaire, as they are both very broad values referring to a number of policy issues covered to some extent by other parts of the report. Public responsibility for higher education represents the obligation of the public sector to higher education systems – especially regarding public funding of higher education. Public responsibility of higher education focuses on the obligation of higher education towards the society – especially in its mission to share knowledge, as a public good, and to empower students with civic engagement and active citizenship skills.

Much of the information presented throughout the report can be considered relevant to public responsibility for higher education. In Chapter 1, information on public investment in higher education provides a basis for assessing whether the level of expenditure indicates a high level of public responsibility and provides sufficient funding for higher education institutions to fulfil their missions. Chapter 4 on the social dimension addresses the public responsibility for ensuring equitable access to higher education, ensuring student welfare and support services, supporting lifelong learning, and as a consequence fostering societal development. Meanwhile information on quality assurance presented in Chapter 2 on Key Commitments also relates to the public responsibility for higher education.

With regard to the issues of public funding, a useful additional source is the EUA's Public Funding Observatory⁽³⁶⁾ which captures the latest funding trends. The data is laid out in a series of reports and the interactive online tool⁽³⁷⁾, which is updated regularly, currently contains data from 34 systems, with the latest data from 2020/2021. Public responsibility for higher education, mainly exercised at the level of the national higher education system, encompasses also political, public policy, regulatory and legal obligations as proposed by the BFUG's draft statement under development for adoption in the Tirana Ministerial conference. The draft statement also refers to the responsibility of safeguarding all proclaimed fundamental values, so all previous sections of this chapter provide further insight into the level of involvement in protection and promotion of fundamental values by national authorities.

Public responsibility for higher education is also exercised at regional and local level, as well as at supra-national level. Public authorities are also expected to ensure the implementation of freedom to learn and the provision of anti-discrimination frameworks that enable this. Relevant data analysis on this aspect can also be found in Chapter 4 on the social dimension.

Regarding the public responsibility of higher education, analysis in chapter 4 focuses on support to community engagement. This addresses a part of the public responsibility of higher education institutions to engage actively with the local community and society at large. This may involve partnering with community organisations, addressing social issues, providing expertise and resources to solve community problems, and promoting civic engagement. Issues tackled at local level may also be mirrored by broader engagement with societal challenges at national, regional and global level. The draft statement also invites higher education institutions to be at the forefront of implementation and promotion of all other fundamental values. This involves bearing a responsibility in communicating research results, sharing knowledge with the wider society and actively engaging in tackling challenges of our contemporary world. While this report focuses more on the national and system level situation, further monitoring would have to also encompass activities of higher education institutions in promotion of fundamental values and communication of research results within society.

⁽³⁶⁾ Available at: <https://eua.eu/resources/projects/586-public-funding-observatory.html>

⁽³⁷⁾ <https://efficiency.eua.eu/public-funding-observatory>

3.6. Conclusions

This chapter takes a first step towards the monitoring of the EHEA fundamental values – academic freedom already defined in the Rome communiqué, and the other five to be submitted for adoption at the forthcoming Ministerial meeting in Tirana in May 2024. In parallel, work continues to develop a technical framework for monitoring fundamental values. The focus of this exercise is on legal protection of values, and as such represents a limited exercise.

De jure protections of fundamental values are widespread throughout the EHEA. While this is a positive finding, the protections have been developed in specific national and cultural contexts and there may be considerable variety in the way in which values are defined. Comparative analysis of these legal realities must also be enriched with reliable de facto assessments, as the legal situation might differ significantly from the situation on the ground.

While values are sometimes defined in national contexts, and sometimes not, the existence of a definition is not sufficient to ensure that the value is understood in a way that aligns with the EHEA understanding. When statements have been adopted it will be important in future monitoring exercises to consider how closely national definitions of values align with or diverge from the concepts of the EHEA fundamental values statements.

From a first analysis of national definitions of academic freedom, not all aspects of academic freedom as specified in the EHEA statement are encompassed in national definitions. For example, the concept of freedom to learn – integral to the EHEA understanding of academic freedom – has been identified as an element of national legal definitions in only two countries – Latvia and North Macedonia.

The attention given to academic integrity seems to be on the rise throughout the EHEA, although some phenomena are far more frequently reported than others. Plagiarism seems to be identified by all member states as a burning issue, while academic fraud and contract cheating receive much less attention from public authorities.

Governance and institutional autonomy are topics that will require both examination at national and system level, as well as considering developments such as the rise of European University Alliances and other trans-institutional structures. Diversity of governance structures is a reality, and each system will need to be understood in context. Again, de facto information will be required to assess how governance structures work in the everyday life of higher education institutions. This report has highlighted the reality that external evaluation of institutional autonomy takes place in half of the EHEA systems and is almost always entrusted to quality assurance agencies.

Of all existing assessment and monitoring tools, the EUA Autonomy Scorecard has been identified as the most usable for an indispensable comparative and complementary tool to the self-reporting from the BFUG.

The current data provides an initial assessment of de jure implementation of student and staff participation in higher education governance, indicating a more embedded approach at institutional than national level. Legislation requiring student and staff representatives to participate in national policymaking is in place in just over a third of the EHEA systems.

De facto assessment would require self-evaluation by the stakeholders themselves, particularly from student and staff associations and trade unions. Student and staff participation is better established at the institutional than at the national level, and this will be important for public authorities to recognise when promoting participation.

There is an urgent need for the ministers to adopt the corresponding definitions for each of the fundamental values of the EHEA so that public authorities and all stakeholders are able to further operationalise their common protection and promotion.

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