**Academic freedom – answers**

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| **Name of the country/entity submitting information** | **Hungary, Pázmány Péter Catholic University** |

**1. How is academic freedom defined and protected in the constitution or laws of your country, and what are possible limitations or restrictions? Please provide the original citation and source, as well as a summary of relevant judicial practice, if any.**

The academic freedom[[1]](#footnote-1) is a fundamental right protected by the Hungarian constitution. Like the other fundamental rights, it can be restricted based on a necessity-proportionality test.

According to the Article X of the *Fundamental Law* of Hungary:

“(1) Hungary shall ensure the freedom of scientific research and artistic creation, the freedom of learning for the acquisition of the highest possible level of knowledge and, within the framework laid down in an Act, the freedom of teaching.

(2) The State shall have no right to decide on questions of scientific truth; only scientists shall have the right to evaluate scientific research.

(3) Hungary shall protect the scientific and artistic freedom of the Hungarian Academy of Sciences and the Hungarian Academy of Arts. Higher education institutions shall be autonomous in terms of the content and the methods of research and teaching; their organisation shall be regulated by an Act. The Government shall, within the framework of the Acts, lay down the rules governing the management of public institutes of higher education and shall supervise their management.”

**2. Are academic staff, teachers, students all entitled to academic freedom? Does this differ by level of education? Please explain.**

It is interpreted in different ways who is exactly entitled to academic freedom. To sum up the different aspects, we can declare that academic freedom is granted to people who carry out an activity which – in the judgement of those who practise science and research – results in a scientific product. Therefore, teaching and research in the higher education is ‘freer’ than in the public education. Academic staff, teachers and students are all entitled to academic freedom but the extent to which they are encouraged to carry out academic work varies.

According to the *Act CCIV of 2011 on National Higher Education* (Nftv), higher educational institutions are highly encouraged to do research and scientific activities.

Academic work is one of the main missions of higher education institutions: according to the Article 2, institutions of higher education are established for the purpose of education, scientific research, and artistic creation as their basic activities. To be granted an operating licence, all the higher educational institutions should meet requirements regarding academic work (a minimum number – depending on the type of the institution – of its lecturers must hold a scientific degree and the institution must have a scientific student body).

As far as higher education students are concerned, the Article 54 claims that the institutions shall be responsible for the search and recognition of outstanding students and the promotion of their professional, scientific, artistic, and sporting activities. The higher education institution, either independently or in cooperation with other higher education institutions, operates a talent management system and mentoring programmes: it may operate academic student circles and professional colleges.

The *Act CXC of 2011* *on National Public Education* (Nktv.) has significantly less statements regarding the academic work and research. The Article 63 grants the teacher the right to improve his/her professional knowledge and skills by participating in organised further training, to participate in county and national tasks related to the operation and control of the public education system, in pedagogical experiments and in scientific research.

The act encourages talent management programmes, which can include preparing students for academic competitions and helping them with research.

**3. What do you consider to be (a) the main challenges to academic freedom, and (b) gaps in the legal framework for protecting academic freedom?**

a) Data protection rules are strictly regulated in the *Act CXII of 2011 on the right to information self-determination and freedom of information*. Even in this sensitive area provides Article 5 opportunity to express academic freedom: a body or person conducting scientific research may disclose personal data if it is necessary to present the results of research on historical events.

However, it seems to be more complicated in practice. Researchers often face obstacles when summon information or data because the authorities are not always cooperative. In government-controlled sectors, such as prisons, education or health care, access to public data conditions need improvement.

b) Some are concerned about the wording of the laws because the right to academic freedom is not granted to the individual teachers and researchers, but to the educational institutions. Only the freedom to teach and research are explicitly declared as fundamental rights in Hungary from the four distinguished aspects of academic freedom (freedom to teach, research, disseminate knowledge and participate in academic governance).

**4. Please explain the autonomy and self-governance enjoyed by educational institutions at the different tiers of education. Please explain what autonomy and self-governance entail. Are there restrictions on police or military personnel entering educational institutions? If so, please share the rules.**

The *Fundamental Law* states in the Article X that the autonomy of higher education institutions covers the content and methods of research and teaching, but their organisation is regulated by law. This is not about the freedom of individual researchers, but about research as an activity in general. The autonomy of higher education institutions includes organisational, financial, economic and staff independence.

According to the Article 24 of the Nktv., public education institutions are professionally autonomous. However, they only decide on matters relating to their organisation and operation which are not reserved to others (mostly to the maintainer, the school district centre, or the minister for education) by law.

There are no restrictions on police or military personnel entering educational institutions. On the contrary, unfortunately, sometimes the presence of the police in schools is needed. The *Act XXXIV of 1994 on the Police* ensures that schools can ask for a ‘school guard’ from the police to maintain order during school hours on the territory of the educational establishment.

**5. Please provide examples of institutional guidelines/codes of conduct developed to ensure respect for academic freedom, including from external public or private actors.**

Every university and research organisation has Organisational and Operational Rules, which almost in all cases hint to the academic freedom. These documents either define the protection of academic freedom at the level of principles or list them in concrete terms.

The Organizational and Operational Rules of the Pázmány Péter Catholic University, for instance, under the Section 78 on the rights and obligations of the lecturers and researchers, list some guarantees protecting the academic freedom. For example, all the lecturers and researchers have the right to research the scientific topic of their choice and present the results of these. As a guarantee of academic freedom, in the Research Regulations of the University of Szeged it is banned to personally influence any research. This influence may be directed to force a favourable resolution in the interest of the influencer or an unfavourable decision concerning a third party.

**6. How is funding, including for research, regulated? Is the process transparent, and are there any guarantees put in place to ensure respect for academic freedom?**

There are three types of educational institutions according to how they are financed: (i) by the state, (ii) by the state through a foundation or (iii) not by the state, ie. by ecclesiastical or private body or minority self-government.

The funding system of public education was fundamentally changed in 2013: public schools’ maintainer became the state. (Previously the local self-governments had the duty of maintaining public schools). The share of public funding has increased.

According to Article 88 of the Nktv., the funds necessary for the operation of the system of public education shall be provided by the state budget and the maintainer. The funding is supplemented by different fees and tuition fees of the institution entitled to charge tuition fees (public education is generally free according to the constitutional rules), and other own revenues of the public education institution. The maintenance authority shall ensure that the additional services and additional staff numbers authorised by it are covered.

The central budget provides a budgetary contribution even for the performance of the public education tasks of an institution maintained by a non-public body.

Higher education institutions can be run by various maintainers, they may operate under different models of funding. It has been a frequent topic in the press that a new model of trust funds has been introduced. 21 formerly public universities have been placed under this model. In September 2021, more than 180,000 students (nearly 70% of all students) started their studies in a new model. Besides, a significant proportion of institutions are run by the church (covering 30,000 students), while six institutions remain state-run. In addition, there are also private higher education institutions.

The budgets of public higher education institutions are approved by their leadership, considering the financial framework reported by the maintainer. Their autonomy is limited by the fact that the chancellor appointed by the state has the right of consent in economic and financial matters, and the maintainer has the right to control the budget.

**7. Which rules and regulations protect academic freedom from interferences by commercial actors and financial sponsors, at different tiers of education? Please explain how conflicts of interest that may arise are addressed.**

The above-mentioned statement about the prohibition of personal influence on research in the Research Regulations of the University of Szeged is an example how academic freedom is protected from interferences. In practice, however, this situation is more complex. For example, if administrative or political bodies, or commercial actors contracts the research institution to carry out a research project, there might be a hidden pressure on the researcher to present favourable results for customer. The best protection against this kind of market phenomenon is individual researcher autonomy.

**8. Please explain whether and the extent to which academic staff and students, at all levels of education, are subject to surveillance by public authorities, for example through on-site cameras or online scrutiny. Has this led to undue restrictions to academic freedom and freedom of expression in educational institutions?**

Most of the educational institutions are equipped with camera systems. However, these primarily don’t aim the surveillance but the property protection. It is strictly ruled who and in which cases can have access these recordings. Surveillance can only occur in criminal proceedings approved by the court.

**9. Do teachers and professors, at all levels of education, enjoy freedom of expression in their own teaching? Are there any limitations imposed, such as remaining “neutral” or forwarding a particular perspective, e.g. on religious and political matters?**

According to Article 63 of the Nktv. the teacher has the right to carry out his/her educational work in accordance with his/her own worldview and values, without forcing or prompting the pupils to accept them.

The Article 32 of the Nktv. claims that in public educational institutes maintained by a religious legal person or religious association, the maintainer can include in its pedagogical programme the knowledge appropriate to its religious or ideological commitment and can incorporate religious education into the curriculum.

Similar to public education, the Article 35 of the Nftv also states that the lecturer has the right to carry out his/her educational work in accordance with his/her own worldview and values, without forcing or prompting the pupils to accept them.

Sometimes, internal university regulations lay down that lecturers should be ideologically neutral.

Neither in higher education nor in public education institutions are the operation of political parties, political movements or party-affiliated organisations allowed. No political activity associated with a party may be conducted during the time when the kindergarten, school or college is in charge of children or pupils.

However, high-ranking political dignitaries (e. g. members of Parliament, ministers) can be researcher, university lecturer, college lecturer, artist, editor or intellectual activity protected by law.

**10. Please explain the extent to which teachers and professors at different education levels can chose school manuals and other books/resources for teaching, and the reasons for any restriction in this regard. Have any specific books/materials been banned, including from school libraries, and alternatively is some material mandatory? If so, why?**

According to Article 63 of the Nktv.the teacher has the right to choose textbooks and teaching materials, on the basis of the local curriculum, after consulting of the professional working group. Teachers can exercise this right within quite strict limits. The Hungarian National Core Curriculum is the basis for preparation of the local curricula and it prescribes the subjects, examination requirement and the teaching aids that can be used in public education in grades 1-12. The standardisation of the content of education aims to ensure that all pupils have access to the same quality education but is also reduces the possibility to adjust the lessons to the abilities and situation of the individual pupils. As far as the choosing of the textbooks and teaching materials are concerned, teachers also have limited opportunities. Schools can only order the textbooks published by the state, but there is still an opportunity to order the book that the teacher thinks are best for the children, with the help of voluntary contributions from parents. There is a wide range of options in approved textbooks, but the state monopoly on textbooks also carries the risk that the teaching materials will lose on quality because there is no real competition.

The Article 32 of Nktv. claims that in public educational institutes maintained by a religious legal person or religious association, the maintainer can specify the textbooks and teaching materials to be used.

As far as higher education is concerned, it is a part of the institution’s autonomy granted by the *Fundamental Law* to decide on the content and methods of research and teaching. This includes that the institution can chose school manuals and resources.

The Article 35 of the Nftv.states that the lecturer has the right to determine the content of the course, the teaching materials and the teaching methods used uses, within the framework of the study programme.

The provision Article 6/A added in 2021 to the *Act XXXI of 1997 on the protection of children and the administration of childcare* caused intense public debates. It prohibits to make available to children under the age of 18 pornographic content and content that depicts sexuality for its own purposes, or promotes or displays gender non-conformity, gender reassignment or homosexuality. This means that schools must be careful and considerate when making statements about sexuality, especially LGBTQ topics. The current government’s position is that it is up to the parents how and when they inform their children about sexuality. This act restricted the possibility for only registered NGOs to hold sessions on sexual culture, sex life, sexual orientation, sexual development, the harmful effects of drug use, the dangers of the internet and other physical and mental health promotion for children. However, it is not clear where this register is available and how to register.

**Resources:**

* Fundamental Law of Hungary
* Act CCIV on National Higher Education (2011)
* Act CXC on National Public Education (2011)
* Act CXII on the right to information self-determination and freedom of information (2011)
* Act XXXIV on the Police (1994)
* Act XXXI on the protection of children and the administration of childcare (1997)
* Organisational and Operational Rules of the Pázmány Péter Catholic University <https://ppke.hu/storage/tinymce/uploads/old/uploads/articles/34/file/SzMSz_2024_01_01_keresheto.pdf?u=1bxhR9>
* Research Regulations of the University of Szeged <https://u-szeged.hu/szabalyzatok/kutatasi-szabalyzat-2022>
* <https://4liberty.eu/academic-freedom-or-lack-thereof-in-hungary/>
* <https://telex.hu/english/2023/03/28/academic-freedom-is-structurally-compromised-only-in-hungary-in-the-eu-according-to-an-ep-study>
* <https://eurydice.eacea.ec.europa.eu/national-education-systems/hungary/funding-education>
* <https://www.ppk.elte.hu/content/az-akademiai-szabadsag-magyarorszagon.t.41494>
* <https://magyarnemzet.hu/velemeny/2023/06/az-egyetemi-szabadsag-vedelmeben>
* <https://nepszava.hu/3189171_europai-unio-magyarorszag-akademiai-szabadsag-tanulmany-ceu-szfe>
* <https://ijoten.hu/szocikk/a-muveszeti-elet-es-a-tudomany-szabadsaga#block-2927>
* <https://ijoten.hu/szocikk/az-oktatashoz-valo-jog#block-2065>
* <https://ijoten.hu/szocikk/a-muvelodeshez-valo-jog>
* <https://www.jogiforum.hu/files/felsooktatasi_jog/20110629csink_lorant__gondolatok_az_alaptorveny_x_cikkerol%5Bjogi_forum%5D.pdf>

1. It should be noted that Hungarian legislation does not use the expression of academic freedom but freedom of scientific research and freedom of teaching. For consistency, we will refer to them hereafter as academic freedom. [↑](#footnote-ref-1)