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The Association of Swedish

Higher Education Institutions

# **Questions from Human Rights Council General framework concerning academic freedom and freedom of expression in educational institutions**

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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.

Sweden has four constitutional laws. They are: The Instrument of Government (1974:152), The Freedom of the Press Act (1949:105), The Fundamental Law on Freedom of Expression (1991:1469), The Act of Succession. According to The Instrument of Government, it applies that "Freedom of research is protected according to regulations announced by law" (chapter 2 § 18) and the law, chapter 1 § 6 of the Higher Education Act, states that “research problems may be freely selected, research methods may be freely developed, and research results may be freely published.

<https://www.riksdagen.se/en/how-the-riksdag-works/democracy/the-constitution/>

The Swedish Higher Education Act (1992:1434) contains provisions about the higher education institutions that are accountable to the Government. These provisions are supplemented by the regulations in the Higher Education Ordinance. According to the Higher Education Act (chapter 1 § 6) applies “Higher education institutions must operate under the general principle that academic freedom must be promoted and protected.”

<https://www.uhr.se/en/start/laws-and-regulations/Laws-and-regulations/The-Swedish-Higher-Education-Act/#chapter1>

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

Academic freedom applies to teachers, researchers and to students. Freedom of research is naturally not relevant for students. No distinction is made between different levels of basic education. Academic freedom also applies to students in postgraduate education.

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

In Sweden most higher education institutions (HEI) are government agencies and essentially seen as a state authority among others. There are, however, some special solutions in regulation and the appearance of board members. A government agency forms part of the state and has a relationship of obedience to the state power. The HEI:s autonomy is thus weak. The self-determination of the HEI is based, to a significant extent, on the government's self-control in the governance. This constitutes a tangible risk and possible threat to the academic freedom of HEI.

There is no general protection for academic freedom in the constitution. There is also a lack of protection, both in the constitution and law, for the freedom of higher education.

**Autonomy of educational institutions**

1. 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 vast majority of higher education is carried out by the HEI in Sweden. All higher education institutions are part of the same system and include almost all post-secondary education. No distinction is made between polytechnics or research-intensive universities – all are part of the same system of laws, resource allocation and follow-up.

The Swedish HEI have a relatively large freedom to choose which courses to offer and which to discontinue. It is mainly the students' demand and the labor market's needs that determine the dimensioning. All students apply to these courses based on the same premises.

There are no special rules for students who have been or are police or military. Sweden does not have any rules that differentiate the police's ability to act within a campus from the police's ability to act in other environments in the rest of society. And that the same basically applies to military personnel, even if military personnel rarely act in ordinary society.

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

There are no common guidelines/codes linked to academic freedom for higher education institutions in Sweden. Magna Charta Universitatum has been highlighted by SUHF and has a significant impact on the Swedish HEI, which most HEI have signed and joined. The UNESCO resolution *Recommendation concerning the status of higher-education teaching personnel* has also had an impact. Several different recommendations from the Council of Europe and the European Parliament have been noticed by HEI, not least *Academic freedom and university autonomy* - recommendation 1762 (2006). The Bonn Declaration and the Rome Communiqué, both from 2020, have also been disseminated.

The Bonn Declaration on Freedom of Scientific Research adopted at the Ministerial Conference on the European Research Area (the ‘Bonn Declaration'). The Rome Ministerial Communiqué highlights fundamentals such as democracy and academic freedom.

<https://www.ehea.info/Upload/Rome_Ministerial_Communique.pdf>

Scholors at risk have produced guidance and central points for academic freedom.

<https://www.scholarsatrisk.org/>

Another example is *Young academies* from across Europe convened in Stockholm to develop a unified Charter for Academic Freedom.

<https://academicfreedom.eu>

**Funding**

1. 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?

Most of the research funds for the universities come from the state and is publicly funded. A significant proportion of these funds are transformed through state research councils, where the funds are mainly distributed through peer review. The HEI have become increasingly dependent on external and time-limited funds. Over 50% of the universities' research funds come from external financiers. The state research councils have increasingly had their funds dedicated to designated purposes and research areas. This has affected researchers' ability to define research areas themselves as well as made it more difficult for the higher education institutions' management to make their own strategic investments.

The process for distributing funds is largely transparent. There is no guarantor or regulator of academic freedom in the resource allocation system.

1. 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.

In Sweden all higher education is publicly funded which means that sponsors are not involved in financing HE. Swedish HEI:s can, however,  offer commissioned education. This is regulated in the Higher Education Ordinance where it is specified that commission education must be fully financed and not have a negative impact on regular education.

**Surveillance**

1. 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?

There is no surveillance or monitoring carried out by the state or state organizations directed at students or staff at the HEI. Such a procedure would violate several different laws.

**Freedom of expression in teaching and access to books**

1. 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?

Yes, all teachers and professors, at all levels of education, enjoy freedom of expression in their own teaching. There are no limitations imposed. However, persons who express themselves within the framework of their profession as academics must follow good academic practice and base their statements on research-based evidence.

The Freedom of the Press Act regulates freedom of expression and freedom of the press in Sweden and guarantees citizens' right to express their opinions through print media without censorship or legal restrictions. The Fundamental Law on Freedom of Expression supplements the Freedom of the Press Act by establishing freedom of expression and freedom of the press in other media, including radio, television and the internet. The protection of freedom of the press and freedom of expression is strongly protected in Sweden and includes all citizens.

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?

The responsible teacher can choose the literature that the teacher sees as relevant. However, it is relatively common for the field of study or institution to have decided on certain rules linked to the choice of literature, for example that the literature must represent both male and female authors. It also happens that literature lists are decided within a collegial group. There is no literature or material that is prohibited.

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For general information about the work on academic freedom within Europe and the EU, I recommend:

Bergan, Sjur, Gallagher, Tony & Harkavy (red.) (2020). *Academic freedom, institutional autonomy and the future of democracy*. Council of Europe Higher Education, series no 24.

The council of europé (2020): *Threats to academic freedom and autonomy of higher education institutions in Europe*.

European University Association (2023). *University Autonomy in Europe IV*. *The Scorecard 2023.*

Maassen, Peter, Martinsen, Dennis, Elken, Mari, Jungblut, Jens & Lackner, Elisabeth (2023) *State of play of academic freedom in the EU Member States*. European Parliamentary Research Service. Scientific Foresight Unit (STOA).

Karran, Terence, Beiter, Klaus & Appiagyei-Atua, Kwadwo (2017). *Measuring academic freedom in Europe: a criterion referenced approach*. Policy Reviews in Higher Education.

Karran, Terence (2019). *Threats to academic freedom and autonomy of universities in Europe. Expert report*. AS/Cult/Inf (2019) 06. Council of Europe.

Vrielink, Jogchum, Lemmens, Koen, Lemmens, Paul & Parmentier, Stephan (2023). *Challenges to academic freedom as a fundamental right*. Advice paper no 31. League of European research universities.