



**Recommendation CM/Rec(2012)7
of the Committee of Ministers to member States
on the responsibility of public authorities for academic freedom and institutional autonomy**

*(Adopted by the Committee of Ministers on 20 June 2012
at the 1146th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering academic freedom and institutional autonomy as intrinsic values of higher education which are essential to the overarching values and goals of the Council of Europe – democracy, human rights and the rule of law;

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and to the Universal Declaration of Human Rights (1948);

Having regard to the European Cultural Convention (ETS No. 18);

Having regard to the Council of Europe/UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165) and its subsidiary texts;

Having regard to the Magna Charta Universitatum adopted by European universities in Bologna in 1988;

Having regard to the European Higher Education Area (EHEA) and its key documents: the Sorbonne Joint Declaration adopted in Paris on 25 May 1998 by the Ministers of Education of France, Germany, Italy and the United Kingdom; the Joint declaration of the European Ministers of Education signed in Bologna on 19 June 1999; the communiqués adopted at their meetings in Prague on 19 May 2001, in Berlin on 19 September 2003, in Bergen on 20 May 2005, in London on 18 May 2007, in Leuven/Louvain-la-Neuve on 29 April 2009 and the Budapest-Vienna Declaration on the European Higher Education Area of 12 March 2010;

Having regard to the UNESCO World Declaration on Higher Education for the Twenty-First Century: Vision and Action (1998);

Having regard to the communiqué adopted by the UNESCO World Conference on Higher Education: The New Dynamics of Higher Education and Research for Societal Change and Development on 8 July 2009 in Paris;

Having regard to Recommendation Rec(98)3 of the Committee of Ministers to member States on access to higher education;

Having regard to Recommendation Rec(2000)8 of the Committee of Ministers to member States on the research mission of universities;

Having regard to Recommendation Rec(2000)12 of the Committee of Ministers to member States on social sciences and the challenges of transition;

Having regard to Recommendation Rec(2002)6 of the Committee of Ministers to member States on higher education policies in lifelong learning;

Having regard to Recommendation Rec(2004)4 of the Committee of Ministers to member States on the European Convention on Human Rights in university education and professional training;

Having regard to Recommendation Rec(2005)13 of the Committee of Ministers to member States on the governance and management of university heritage;

Having regard to Recommendation Rec(2006)9 of the Committee of Ministers to member States on the admission, rights and obligations of migrant students and co-operation with countries of origin;

Having regard to Recommendation CM/Rec(2007)6 of the Committee of Ministers to member States on the public responsibility for higher education and research;

Having regard to Recommendation CM/Rec(2010)7 of the Committee of Ministers to member States on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education;

Having regard to Parliamentary Assembly Recommendation 1762 (2006) on “Academic freedom and university autonomy”;

Mindful of the outcomes and recommendations of the European Year of Citizenship through Education (2005);

Considering that higher education fulfils the multiple purposes of preparation for the labour market, preparation for life as active citizens in democratic societies, personal development and the development and maintenance, through teaching, learning and research, of an advanced, comprehensive and diverse knowledge base;

Considering that higher education and research is a public responsibility;

Considering that member States are responsible for the organisation and content of their higher education systems;

Considering that higher education is crucial to the development and maintenance of the democratic culture and is indispensable for democratic societies to become a reality as well as for the social cohesion of European societies;

Considering, therefore, that it is primarily the responsibility of public authorities to establish and maintain the required environment and framework to guarantee institutional autonomy and academic freedom;

Further considering academic freedom and institutional autonomy as essential to enable higher education to fulfil its diverse roles in the changing societies of today,

Recommends that the governments of member States:

1. take into account, in the establishment of higher education policies, the principles and provisions set out in the appendix hereto and draw these principles and provisions to the attention of the competent bodies concerned, so that they can be considered and taken into account;
2. promote the implementation of these principles and provisions by local and regional authorities and by higher education institutions within the limits imposed by the autonomy of these institutions;
3. ensure that this recommendation is distributed as widely as possible among all persons and bodies concerned with higher education;

Invites the Secretary General of the Council of Europe, as appropriate, to transmit this recommendation to the governments of those State Parties to the European Cultural Convention which are not members of the Council of Europe.

I. Scope and definitions

1. The present recommendation addresses the role and the responsibility of public authorities in promoting institutional autonomy and academic freedom as essential features of their national education systems as well as in European higher education, and as values underlying the EHEA.
2. Taking into consideration the diversity of European higher education systems and the changes in the student population through the increase in student numbers, age ranges, needs and expectations, public authorities should promote a framework which encourages the public responsibility with regard to higher education as well as the public responsibility of higher education.
3. All definitions are given for the purposes of the present recommendation while recognising that they may be used differently in national and other contexts. The terms “public responsibility” and “public authority” are used as defined in Recommendation CM/Rec(2007)6 of the Committee of Ministers to member States on the public responsibility for higher education and research.
4. Academic freedom and institutional autonomy are essential values of higher education, and they serve the common good of democratic societies. They are, nevertheless, not absolute, and rely on a balance which can only be provided through deliberation and consultations involving public authorities, higher education institutions, the academic community of staff and students and all other stakeholders.
5. Academic freedom should guarantee the right of both institutions and individuals to be protected against undue outside interference, by public authorities or others. It is an essential condition for the search for truth, by both academic staff and students, and should be applied throughout Europe. University staff and/or students should be free to teach, learn and research without the fear of disciplinary action, dismissal or any other form of retribution.
6. Institutional autonomy, in its full scope, encompasses the autonomy of teaching and research as well as financial, organisational and staffing autonomy. Institutional autonomy should be a dynamic concept evolving in the light of good practice.

II. General principles

7. Public authorities should set the framework for academic freedom and institutional autonomy and continuously monitor the implementation of those fundamental rights, while encouraging the adoption of sustainable long-term strategies for higher education. The responsibility of the public authorities should be articulated in relation to their different roles. For academic freedom and institutional autonomy to become and remain a reality, public authorities should devise policies that call for positive measures in some areas, such as adopting a qualifications framework and making provisions for external quality assurance, while in other areas they should refrain from intervening, and from providing detailed guidelines for curricula and teaching programmes or regulating the internal quality development of institutions, for example.
8. Institutional autonomy should not impinge on the academic freedom of staff and students. Public authorities should provide a framework based on trust and respect within the academic community. Only in a climate of confidence can higher education fully serve open democratic societies and encourage their development through freedom of thought and critical and creative thinking.

9. The responsibility of public authorities for academic freedom and institutional autonomy is primarily exercised at the level of higher education systems. Acknowledging that member States are responsible for the organisation and content of their education systems and that this requires dialogue between higher education institutions, students and staff and public authorities, this recommendation sets out principles which should be observed regardless of how education systems are organised, and which apply to all higher education institutions, whether public or private, non-profit or for-profit.

III. Regulatory mechanisms

10. Public authorities should encourage continuous dialogue on the future of higher education, in particular with higher education institutions, students and staff but also with other stakeholders, with a view to developing coherent strategies, which take into account international developments, the diversity of higher education institutions, societal changes and the variety of purposes of higher education. In devising strategies, public authorities should refrain from giving directives to higher education institutions and instead rely on incentives and dialogue in defining the contribution of higher education institutions in implementing the strategies.

11. In developing regulations and policies in other areas of public responsibility, public authorities should take due account of the principles of academic freedom and institutional autonomy. Public authorities should thus balance the need for general rules and regulations ensuring the protection of individuals and guaranteeing sound public administration with the principles of academic freedom and institutional autonomy. The monitoring of the implications of legal regulations should take into account the different modalities of regulation of the status of academic staff, whether or not they belong to the civil service corps.

12. Public authorities and other stakeholders in higher education governance structures and mechanisms should respect the principles of academic freedom and institutional autonomy. The development and use of knowledge should be independent of particular political, economic, social or other interests. Public authorities should encourage the creation of a collegial environment of respect and a feeling of mutual ownership, with due respect to the leading role of the institutions.

13. Within the regulatory mechanisms, the public authorities should encourage flexible and reasonable administrative approaches and practice, based on flexible and reasoned approaches, adapted to the activities undertaken. The management of higher education institutions should further their autonomously defined missions and priorities.

IV. Working environment

14. Public authorities should establish and maintain the necessary conditions for the exercise of the right to a supportive working environment. In order to do this, the implementation of sound ethical standards developed by the institutions in accordance with the overall system framework should be encouraged. Public authorities should also review anti-corruption measures to ensure adequate legal provisions and at the same time encourage higher education institutions to develop appropriate measures at institutional level in this sphere.

15. Public authorities should be responsible for guaranteeing equal opportunities of access to and completion of higher education, as well as other anti-discrimination measures which concern staff and students, and the development and use of knowledge.

16. Public authorities should improve access to research results, as research and knowledge are our shared heritage.

V. Financing of higher education

17. Financial autonomy is a key prerequisite for institutional autonomy. Public authorities should have a considerable responsibility for financing and improving access to higher education and research; the financing and provision of resources by other sources should also be encouraged and facilitated, within the framework developed by public authorities. Regardless of the sources of financial income, higher education institutions should be in a position to allocate and manage their funds in line with the priorities established by their governance bodies, in accordance with the legal provisions and the regulatory framework as set by the public authorities.

18. Public authorities should ensure that higher education funding from public sources, irrespective of funding schemes, are appropriate for the activities and the needs of the entities funded.

19. The overall regulatory mechanisms for higher education funding should enhance transparency and provide clear provisions for impeding any possible menace to academic freedom and institutional autonomy through funding schemes, whether the sources are public or private.

20. Public authorities should encourage higher education institutions to take due account in their priorities of the need to conduct teaching and research in a broad range of disciplines, as well as across disciplines. This includes teaching and research which are important for the development of democratic and multicultural and/or to specific development strategies, in particular where they might not be funded through other sources.

VI. Responsibility for the system level framework

21. Public authorities should have exclusive responsibility for the provision of the framework within which higher education and research is conducted. National qualifications frameworks and quality assurance mechanisms should be in accordance with the principles of academic freedom and institutional autonomy and take due account of the basic values and variety of purposes of higher education.

22. The role of public authorities should encompass monitoring the sources of funding of higher education institutions and possible intrusions on academic freedom and institutional autonomy. Public authorities should have the main co-ordinating role in providing transparent information about higher education systems and providing guidelines for information on specific higher education programmes and offers.

VII. Internationalisation

23. Public authorities, higher education institutions and stakeholders should take a broad, international perspective of the role and purposes of higher education. Public authorities should encourage the implementation of the international policies and texts which require institutional autonomy and academic freedom. International co-operation agreements should respect these same principles. These two fundamental values are pillars of the European dimension of higher education, which is embodied in the EHEA.