

CHAPTER 3: FUNDAMENTAL VALUES

DRAFT November 2023

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, 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 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). Two existing frameworks have been noted as useful: for the development of a culture of academic and scientific integrity - the Council of Europe’s Platform on Ethics, Transparency and Integrity in Education (ETINED), and for the strengthening of academic and scientific freedoms - the process of strengthening synergies between the EHEA and the European Research Area. Since 2020, the BFUG WG on Fundamental Values has been developing the definitions of the fundamental values and accompanying statements, as well as the initial proposal of an assessment framework.

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. The attention the topic of academic freedom has received since 2020 has provided additional data relevant for consideration in this exercise, through numerous studies, reports and advocacy activities – all of which enrich the drafting of this report. However, the data analysis remains primarily based on the self-reporting exercise of member states through the BFUG questionnaire.

This is followed by fundamental values 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* did not collect data through a specifically targeted section 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.

This chapter provides only an initial glimpse into the fundamental values within the EHEA, while the BFUG working group on Fundamental Values has the task of proposing a more fully-fledged proposal for future monitoring and the establishment of clear indicators.

Introduction

Fundamental values have been at the core of the EHEA since the very beginning. However these values were initially assumed to be commonly understood and respected, and no clear definitions were agreed, nor any implementation and evaluation frameworks considered. Fundamental values moved more explicitly into policy discussions 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 in the EHEA to begin the process of evaluating the implementation and promotion of fundamental values. However, this exercise is necessarily limited. The BFUG working group on Fundamental Values is yet to propose a monitoring framework for adoption by the BFUG and, with the exception of academic freedom, definitions and statements to establish a common understanding of the fundamental values are also yet to be adopted.

In this report, the focus is primarily on the data provided by member states through BFUG questionnaires. The data collection privileged de jure aspects of the implementation and promotion of fundamental values. Nevertheless, additional information has been used from the rich data produced as a result of academic and stakeholder research efforts, whenever available and appropriate, with the aim of indicating where additional information would be welcome for a full and accurate assessment of the situation in the future.

The BFUG Working Group on Fundamental Values, continuing the work of the Task Force on Fundamental Values 2018-2020, has prepared three statements on 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 meeting in Tirana 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 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 is currently harmonizing the final proposal, 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>		Outlook (negative, unchanged, positive)	Academic freedom	Institutional autonomy	Participation of students and staff in university governance
Protection (adequate, intermediary, inadequate)	Promotion (absent, limited, significant) 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>		Outlook (negative, unchanged, positive)	Academic integrity	Public responsibility for higher education	Public responsibility of higher education
Protection (adequate, intermediary, inadequate)	Promotion (absent, limited, significant) ²				
<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 to fully comply with the proposed EHEA definition of institutional autonomy. However, from the perspective of the proposed Technical Framework, it is missing collection of data on infringements and partially on threats, for the needs of de facto monitoring. It also only partially covers the promotion of

^{1,2} Promotion of fundamental values will also include significant elements of *de facto* monitoring.

^{2,2} Promotion of fundamental values will also include significant elements of *de facto* monitoring.

commitments (Craciun et al. 2023). Through cooperation between the Council of Europe (CoE) and the Global Observatory on Academic Freedom (GOAF), a working report has been prepared with the aim of assessing the linkages between Quality Assurance mechanisms and monitoring of fundamental values (Craciun et al. 2021). Unfortunately, out of 50 EQAR registered agencies, in the study only 7 responses were obtained. Among them, the majority reported that inclusion of fundamental values into quality assurance processes should be led by the EHEA through inclusion in the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG), and subsequently national policies, without the agencies themselves taking a lead in the inclusion of fundamental values into quality assurance processes. The current version of the ESG does acknowledge 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 common work within the BFUG for the development of indicators on de jure and de facto implementation and promotion of fundamental values and the finalisation of the assessment framework for future reporting 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.

As the statement further argues, academic freedom is deeply interconnected with all other fundamental values. Thus any monitoring and evaluation approach must necessarily be a holistic one recognising the interdependence between the values as a whole, as well as between each of them. This principle applies for all of the values. Thus, this report can only be understood as a whole and not as a set of separate elements, just like the values themselves. 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.

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 of the Global Observatory on Academic Freedom³ (2023), or Academic Freedom in Constitutions Dataset (1789-2022) (Spannagel 2023). The results of these research efforts show an immense diversity of the exact formulations and wordings of academic freedom across the globe, sometimes mentioning only “freedom of science” or “freedom of research”,

³ <https://elkana.ceu.edu/global-mapping-regulatory-frameworks>

“freedom of science and education” or “freedom of scientific creativity”, and various ways in which academic freedom can appear in legislative frameworks.

The Academic Freedom Index⁴ providing data as fresh as from December 2022 gives an insight into the state of affairs for 179 countries and territories worldwide; concluding that academic freedom is in decline for over 50% of the world's population, while 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% of the countries (AFI 2023, p.3), in accordance 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 academic freedom 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), which 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.

The European Commission is also developing an action within the European strategy for universities to produce guiding principles on protecting fundamental academic values. The results of this work are yet to be seen, but it is clear that there is need for coherence between actions within the European Higher Education Area, the European Education Area and the European Research Area.

European Students' Union (ESU) raised their concerns about the patterns of student repression in countries like Belarus, Russia, Türkiye, Hungary, France and Italy, and has launched important initiatives⁵ 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), even if the responses in majority came from Hungary, Austria, Romania, France and the Czech Republic, concluded that small numbers of students indeed 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 important to keep in mind the divergences between various instruments, or de facto and de jure perspectives: for example legal protection of academic freedom was in some studies ranked low for Estonia, Malta, Slovenia or Sweden (Beiter et al. 2016), while in the Academic Freedom Index they were ranked among the countries with the highest level of academic freedom (Kováts and Rónay 2023).

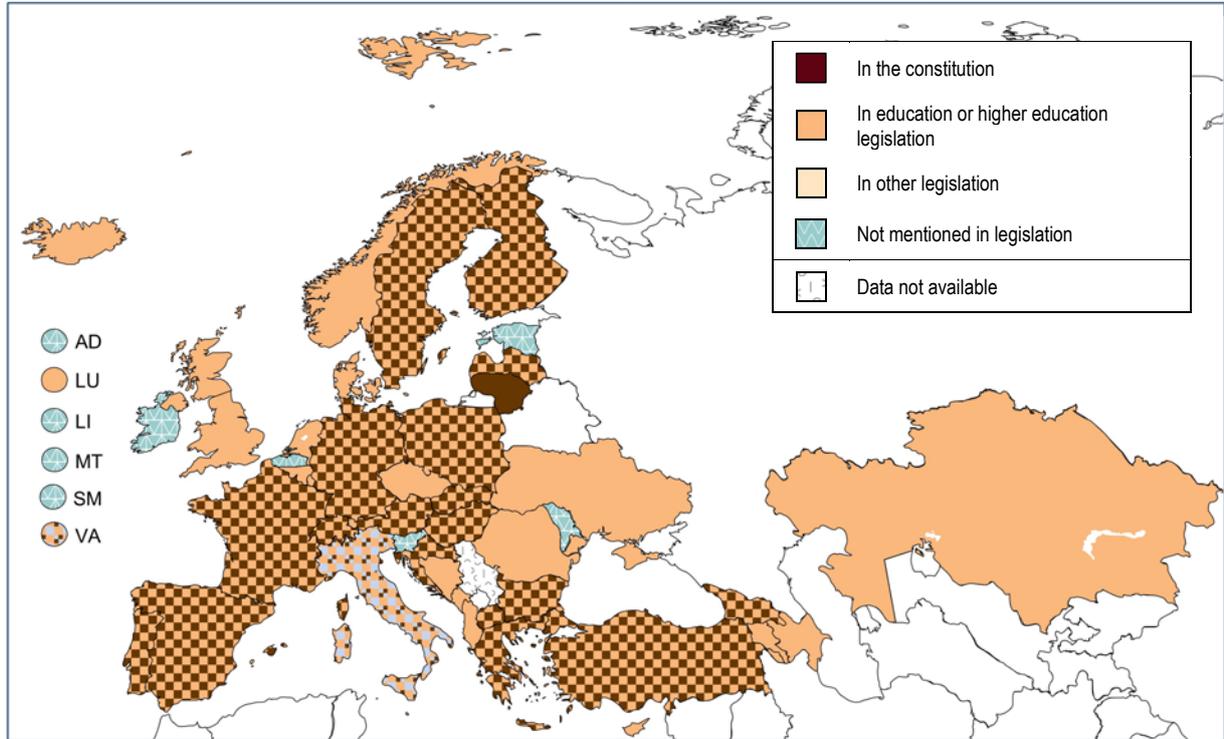
Based on the data provided by member states for this report, the majority of EHEA countries has the concept of academic freedom specifically mentioned in legislation. The only exceptions are: Andorra, Belgium – Flemish community, Estonia, Ireland, Liechtenstein, Moldova, Malta, Slovenia and San Marino. 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.

⁴ <https://academic-freedom-index.net/>

⁵ <https://esu-online.org/projects/academic-freedom/>

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.

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



Source: BFUG data collection.

Out of the countries which include the concept in their legislative frameworks, around half of them define the concept.⁶ There are quite diverse approaches to defining academic freedom, and no data on planned policy changes have been identified. At this stage it is not known whether or how countries plan to harmonise their definitions of academic freedom with the EHEA definition.

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

⁶ The countries which define the concept are: Austria, Azerbaijan, Bulgaria, Switzerland, Czechia, Germany, Greece, France, Croatia, Iceland, Italy, Luxembourg, Latvia, Montenegro, North Macedonia, Norway, Romania, Sweden, Slovakia, Türkiye, Ukraine, UK EWN, UK Scotland, and Holy See.

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

1. Freedom of science, research and artistic creation and the publication of their results⁷;
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.”⁷

However some national definitions remain restrictive. 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 research⁸ while in Switzerland legislation guarantees only freedom of research and freedom to teach⁹.

In Greece, academic freedom applies only within the university premises¹⁰, and the law in Romania seems to indicate the same (Education Law 1/2011, Article 304(3))¹¹. 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, it does not allow for the right to communication in and with society. This reflects a narrower definition of academic freedom than the one adopted within the EHEA.

In Germany, while proclaiming the freedoms, it is stated in Article 5(3) 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 security¹². 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).

In Croatia, the Act on Higher Education and Scientific Activity (2022) in Article 3 includes in academic freedoms also 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”¹³.

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

⁷ https://www.msmt.cz/file/43791_1_2/

⁸ Law on Education, provision 33.2., <https://e-qanun.az/framework/18343>

⁹ 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

¹⁰ Law 4957/2022, art. 4.

¹¹ <https://legislatie.just.ro/Public/DetaliiDocument/125150>

¹² 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

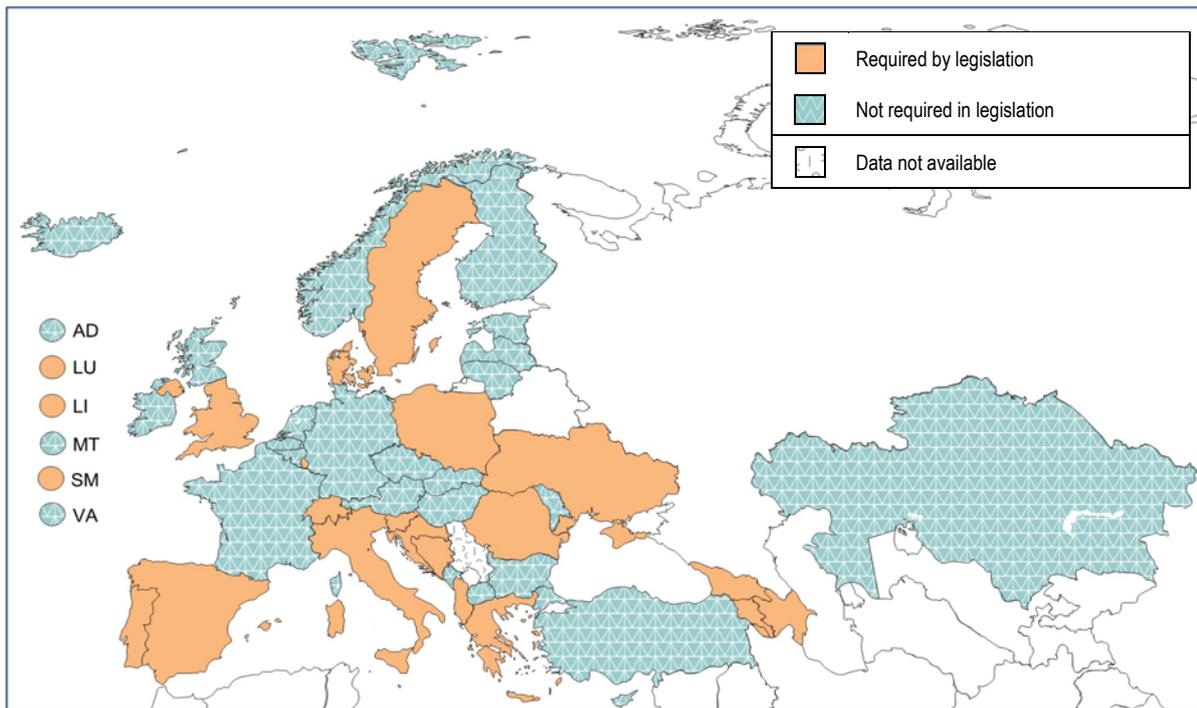
¹³ https://www.sabor.hr/hr/o-saboru/vazniji-propisi/ustav-republike-hrvatske-narodne-novine-broj-561990-1351997-81998-1132000_27/04/2023 ; https://narodne-novine.nn.hr/clanci/sluzbeni/2022_10_119_1834.html

influence of the owners and financial backers of the institution”¹⁴, and Luxembourg specifically identifies possible influences as “political, economic, religious or ideological”¹⁵. Freedom to learn, formulated as “freedom of studies” is explicitly set out and defined in Latvia (Law on Higher Education Institutions, Article 6)¹⁶ 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 approximately half of the EHEA countries, as shown in the below map (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 ones bearing this responsibility, with only Azerbaijan having another public agency or body dealing with this task – the Higher Attestation Commission. Concurrently with the previously discussed CoE and GOAF report on the link between quality assurance and fundamental values, more work needs to be done for quality assurance procedures and mechanisms to fully integrate the evaluation of academic freedom and the other fundamental values throughout the EHEA.

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



Source: BFUG data collection.

¹⁴ <https://www.government.is/publications/legislation/lex/2017/11/22/Higher-Education-Act-No-63-2006/>

¹⁵ 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

¹⁶ <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.343430>

Promotion of academic freedom

Looking into the support and promotion mechanisms, approximately only a fifth of the EHEA countries¹⁷ 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, the vast majority of countries did not report any top-level actions to support and enhance academic freedom. Among the exceptions, special 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 2022¹⁸.

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 separate and distinct value. While a common understanding of academic integrity is being developed within the EHEA, it is clear that the concept builds on honesty, transparency, fairness, trust, responsibility, respect and courage. It is also clearly linked to academic freedom 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 like the developing artificial intelligence, and old challenges like cheating and misconduct and corruption practices. Crucially, academic integrity remains inseparable from the other fundamental values.

In a recently conducted ESU survey (2020), the majority of students reported that they are not aware of their options in cases of academic misconduct. Efforts in better student information are maintained through, among else, initiatives like "FraudS+ project – False Records, Altered Diploma and Diploma Mills Qualifications Collection"¹⁹. The project builds the FraudSCAN database²⁰, 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 and is accessible to staff of the ENIC-NARIC centres only.

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.

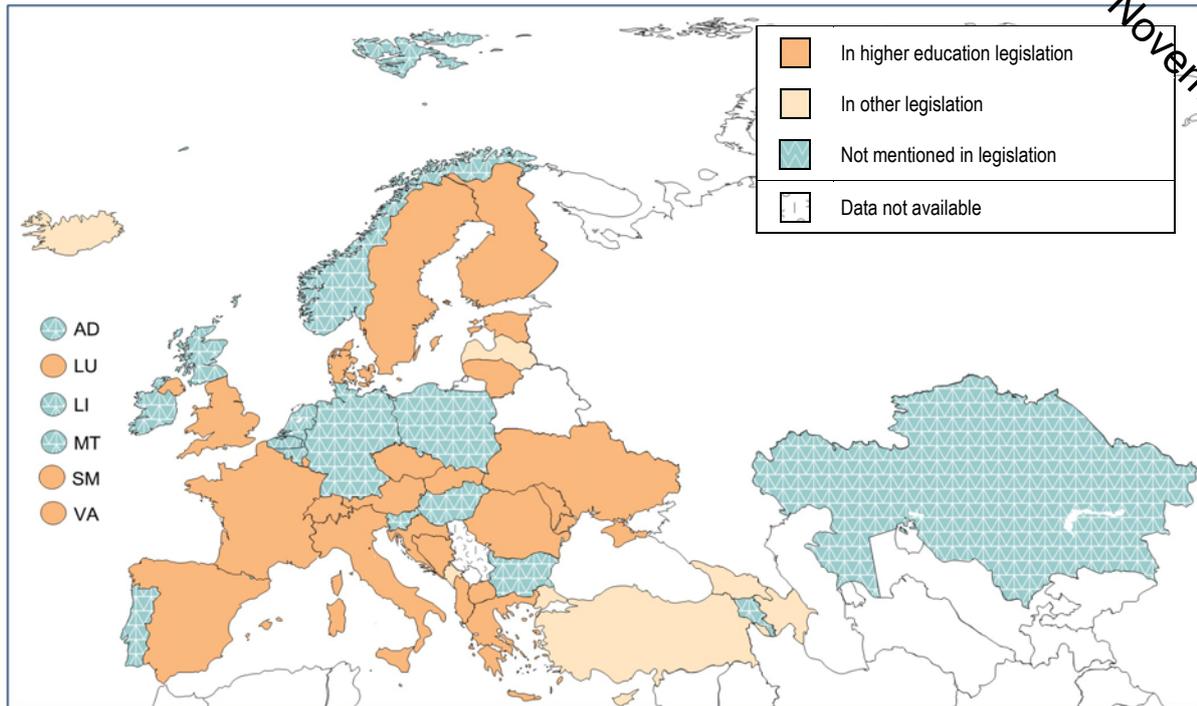
¹⁷ Countries that have developed guidelines and other mechanisms to support the exercise of academic freedom: Switzerland, Germany, Georgia, Italy, Kazakhstan, Norway, Poland, Sweden, Türkiye, and UK EWN.

¹⁸ Norwegian Ministry of Education and Research, Official Norwegian Reports NOU 2022:2, "Academic Freedom of Expression", Accessible at: <https://www.regjeringen.no/contentassets/ec388f0a1dcc4a628fda2fe95e5ddba7/en-gb/pdfs/nou202220220002000engpdfs.pdf>

¹⁹ 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.

²⁰ <http://fraudscan.cimea.it/>

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 other legislation this mostly refers to legislation regarding property rights and copyright laws, like 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 Integrity²¹, which it did in 2019.

Among the countries which mention academic integrity in legislation, it is defined in only one fifth.²² 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 UK – England, Wales and Northern Ireland, they refer more specifically to student practices. France has one of the more comprehensive legislative frameworks, where academic integrity is defined as “the set of rules and values that should govern research activities to ensure that they are honest and scientifically rigorous”²³. Another comprehensive example 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”²⁴.

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

²² Countries in which academic integrity is defined in legislation: Austria, Denmark, France, Croatia, Latvia, Montenegro, Sweden, San Marino, Türkiye, Ukraine, and the UK – EWN.

²³ 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>

²⁴ 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\(point%20\)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)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 place²⁵.

In the case of the only EHEA law on academic integrity, in 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 academic process”²⁶.

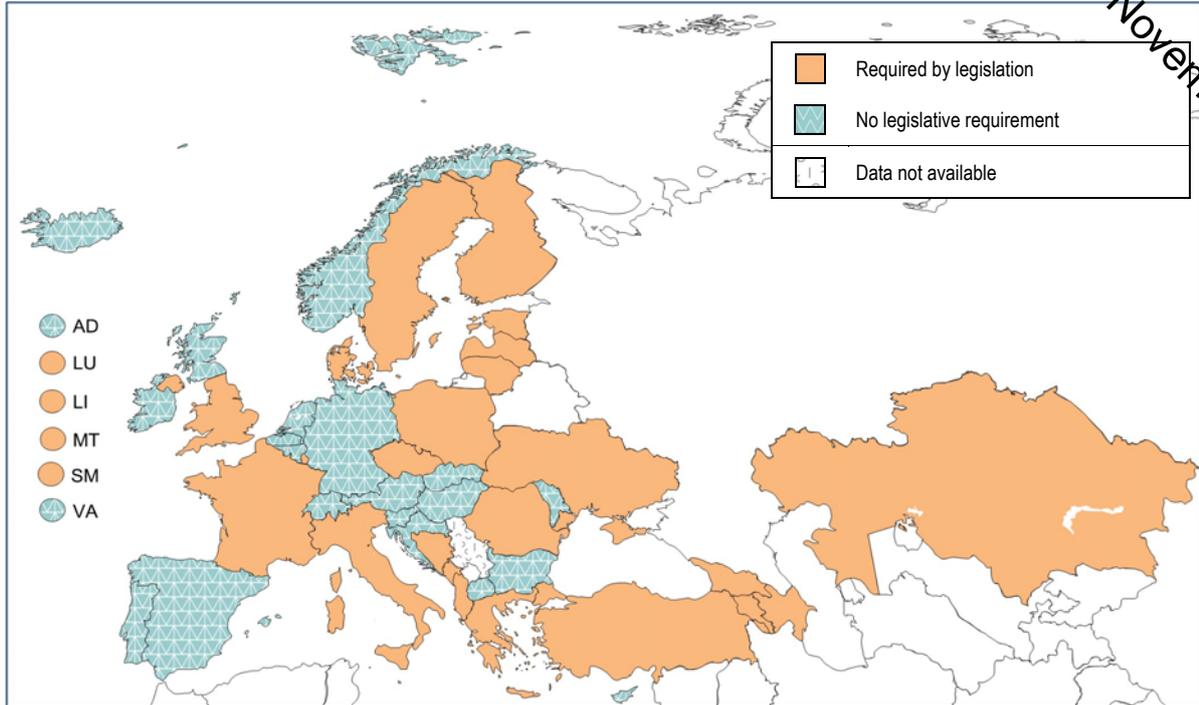
Even if academic integrity is not defined in most of the EHEA countries, it seems to be clear what constitutes its breach. Academic fraud is most often considered a punishable offence in administrative terms. Only once it is combined with criminal offences does it become a punishable crime. When the acts in question remain within the scope of administrative offences, most usually perpetrators can 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 as shown in the map below - Figure 3.4. Out of those, the majority indicates the external quality assurance agency as the responsible body, and another public agency or body were indicated only in the cases of Azerbaijan, Finland, Poland, Romania, Sweden and Türkiye. In Sweden, it 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 to investigate if any misconduct has taken place, based on the Law on responsibility for good research practice from 2019.

²⁵ 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

²⁶ Zakon o akademskom integritetu 2019, Republika Crna Gora. Available at: <https://www.gov.me/dokumenta/5825374f-0da5-41df-8d52-f9273d88a44b>

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



Source: BFUG data collection.

Beyond evaluation, for successful monitoring and evaluation of academic integrity, transparency plays an important role. However, an overwhelming number of countries do not even 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)²⁷, and in Denmark, annual reviews are published on the site of the Danish Board on Research Misconduct (only in Danish)²⁸.

²⁷ <https://tenk.fi/en/tenk/annual-reports>

²⁸ <https://ufm.dk/forskning-og-innovation/rad-og-udvalg/Naevnet-for-Videnskabelig-Uredeligheddelighed>

addition to the special law, in June 2021, the Ethics Committee adopted an Ethics charter³³ 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). Beyond that, a significant element of public responsibility for higher education is the responsibility of public authorities 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. All the while, higher education institutions remain accountable to the society in the exercise of their autonomy. 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, as well as financial, organisational and staffing autonomy.

The European University Association’s Autonomy Scorecard 2023³⁴ looked into 35 higher education systems in Europe, and provided detailed information on organisational, financial, staffing and academic autonomy. The data shows that the situation remains stable in most of the researched countries across autonomy dimensions. Decreased autonomy has been identified only in a small number of cases, with only Denmark, Estonia and Slovakia appearing in more than one category. Increased autonomy has been noted in eight countries in more than one category: Austria, Czechia, France, Greece, Ireland, Luxembourg, the Netherlands and Poland.

Table 3: System changes across autonomy dimensions

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

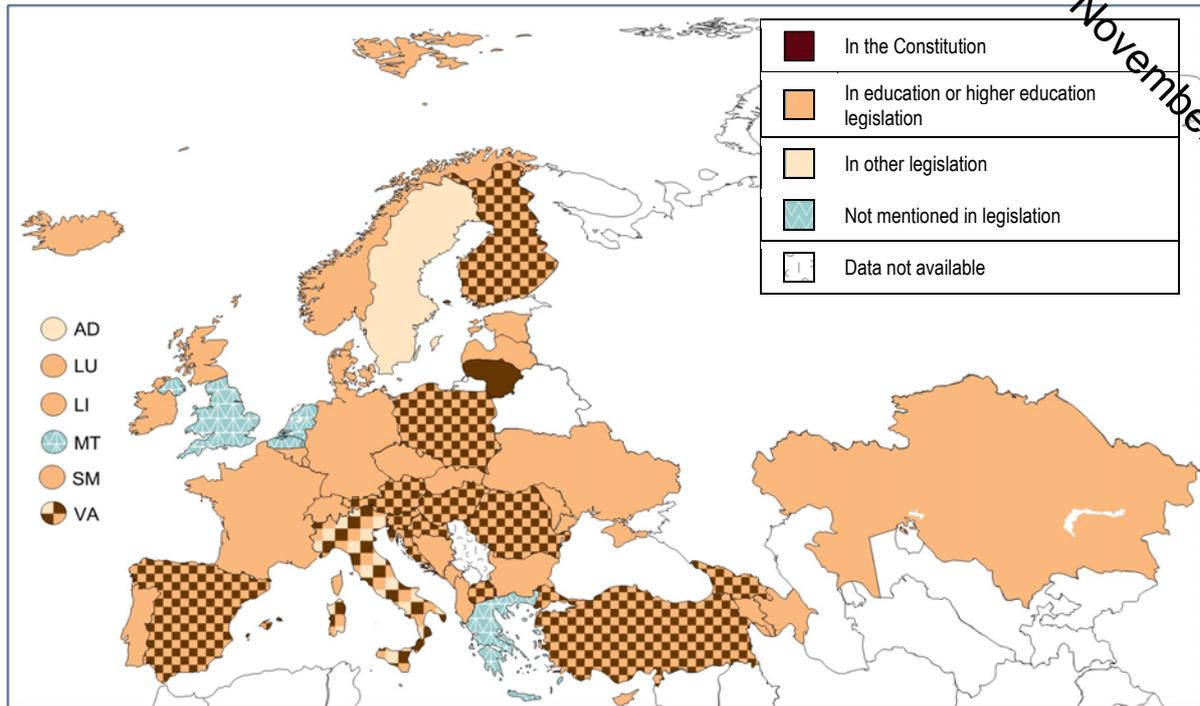
Source: *EUA Autonomy Scorecard 2023*

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 UK 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.

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

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 majority³⁵ 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.

Academic freedom is also more often than not part of the definition of institutional autonomy, confirming their close interconnectedness. In Romania, university autonomy is exercised only under the condition of higher education institutions assuming public responsibility³⁶. 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 (with the exception of tuition fees determined for certain categories of students), and organisational autonomy³⁷. 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.³⁸

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 community³⁹; or in Latvia, North Macedonia, Slovenia, and Slovakia

³⁵ Countries that define the concept of institutional autonomy in their legislation: Armenia, Austria, Azerbaijan, Bulgaria, Switzerland, Czechia, Germany, Estonia, France, Georgia, Croatia, Iceland, Italy, Kazakhstan, Lithuania, Luxembourg, Latvia, Moldova, Montenegro, North Macedonia, Portugal, Romania, Sweden, Slovenia, Slovakia, San Marino, Türkiye, Ukraine, and Holy See.

³⁶ Law of Education I/ 2011, Article 123, section (4). Available at: <https://legislatie.just.ro/Public/DetailiiDocument/125150>

³⁷ Article 6. Autonomy, competence and academic freedoms of higher education institutions. Available at: <http://www.irtek.am/views/act.aspx?aid=150067&m=%27%27&sc=>

³⁸ Article 6. Available at: https://www.msmt.cz/uploads/odbor_30/DH/Zakon/02/The_Higher_Educational_Act_31.8.2018.pdf

³⁹ Act on Higher Education and Scientific Activity, Article 4. Available at: https://narodne-novine.nn.hr/clanci/sluzbeni/2022_10_119_1834.html

where also political activities of political parties and political movements are not allowed⁴⁰. 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.

The structures of governing bodies of higher education institutions reveal crucial information about the state of institutional autonomy. In approximately 60% of the 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 law⁴¹.

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 only 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, Latvia and 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).

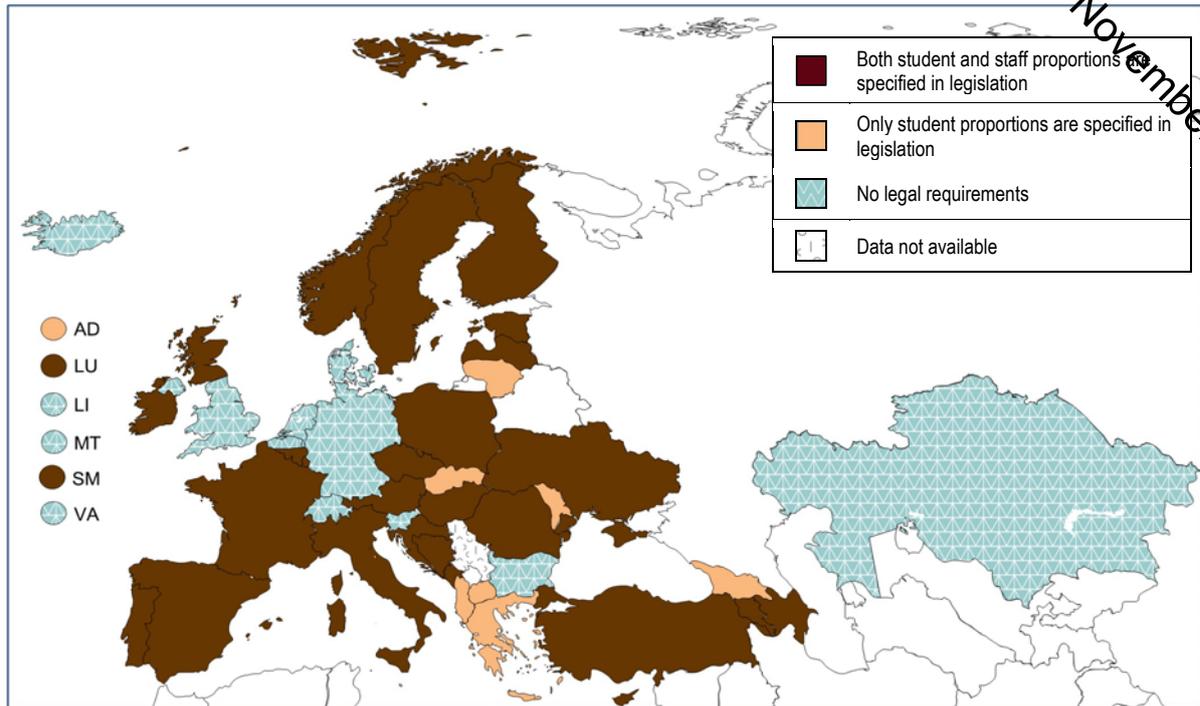
The complexity arises regarding other representatives like employers and others – see Table 3.1 in Annex. For over half of the countries, there is a legal requirement for employer representative(s) to be included in governing bodies. In a number of countries, the inclusion of other representative(s) 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 professional bachelor's HE 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 the important interconnection of institutional autonomy with the fundamental value of student and staff representation in governance, looking into the specificity of legislation regarding the proportions of students and staff in higher education institutions' governing bodies, none of the countries specifies only the proportion of staff but some do focus only on proportion of students, as shown in the map below.

⁴⁰ § 4 Act 131/2002 Academic Freedoms and Academic Rights. Available at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2002/131/20050201.html>

⁴¹ Countries in which government/top-level authority representative(s) are included in governing bodies of HEIs: Andorra, Albania, Armenia, Bosnia and Herzegovina, Belgium – French community, Bulgaria, Cyprus, Czechia, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Latvia, Moldova, Montenegro, Slovenia, San Marino, and Holy See.

Figure 3.7 Required proportions of students and staff in higher education institutions' governing bodies, 2022/2023



Source: BFUG data collection.

Among the countries which specify the proportions of students and/or staff, proportions largely vary – 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 have diverse governance systems and the questionnaire did not allow showing the specificity of data for each type of institutions. On a general level, however, the numbers differ significantly, with staff certainly having larger numbers guaranteed than students. In some cases, the specific numbers are defined (for example, Andorra, Cyprus, Ireland, Lithuania, Sweden, etc.); in others, percentages are defined. In Azerbaijan between 3 and 10% staff participates while in Bulgaria staff has a minimum representation of 75% and a maximum of 84%. In Spain, in the Senate, students comprise at least 25% of the representatives, and academic staff a minimum of 51%, while in the Academic Council there is a minimum of 10% of both students and staff⁴². Student percentages fluctuate between 10%, as in Albania⁴³ up to 25% in Hungary⁴⁴, and reaching 50% at universities in Belgium – French community⁴⁵ or Czechia⁴⁶.

Certainly, participation in governance bodies alone does not reflect the full scope of the possibilities for staff and student participation. 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 if not required, it usually happens. Poland and Latvia are the only two countries that indicated that all members contributing on all issues is not required by law and it usually does not happen.

⁴² Articles 45 and 46 of Organic Law 2/2023, of 22nd March, on the University System. Accessible at: <https://www.boe.es/buscar/pdf/2023/BOE-A-2023-7500-consolidado.pdf>

⁴³ Article no 37, Law 80/2105 "On higher education and scientific research in HEIs in Albania"

⁴⁴ <https://net.jogtar.hu/jogszabaly?docid=a1100204.tv>

⁴⁵ 21/09/2012 - Décret relatif à la participation et la représentation étudiante dans l'enseignement supérieur, art.16-20 - https://www.gallilex.cfwb.be/fr/leg_res_02.php?ncda=38052&referant=101

⁴⁶ https://www.msmt.cz/uploads/odbor_30/DH/Zakon/02/The_Higher_Educational_Act_31.8.2018.pdf

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. It is not required and usually does not happen in Switzerland, Germany, Denmark, Greece, Liechtenstein, Latvia, Norway and Poland. In Switzerland, just like in Poland, not all stakeholders can take decisions on professors' appointment. In Denmark, the chairman of the board has specific exclusive responsibilities, like the dialogue with the minister and property issues; and vice-rectors participate in the Senate without voting rights (Law 4957/2022, art.16, par.2). Liechtenstein has indicated that the Senate does not have full rights to take decisions on all issues; Luxembourg has noted that the University Rector and the Government Commissioner have only consultative rights in the Governance Council; and in Sweden it is clear that students can participate in some, but not all, decisions that have a bearing on their courses or programmes or the situation of students (Higher Education Act, SFS 1992:1434, 2 ch, 7 §).

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 as shown in Table 3.2 in the Annex. Iceland is the only country where exclusively higher education institutions' governing body decides for themselves, enjoying absolute autonomy on this issue. In all other countries, it is defined by legislative frameworks – at least for the publicly funded institutions.

Presenting data on appointment and dismissal of higher education institution leaders (Rectors or equivalent) in all its complexity again calls for specific visual representation as shown in Tables 3.3 and 3.4. in the Annex. Regarding appointment, in a little over half of cases, it is the responsibility of the higher education institution's highest governing body, or an internal higher education institution steering body, e.g. Senate. In Albania and Slovenia, it has been indicated this is solely the responsibility of staff and students, although it remains unclear within which framework. In the rest of the countries, it is the government or public authority which makes the decision. In some countries this is done together with HEIs bodies, or there are also other actors involved. However, in Azerbaijan, Belgium – French community, Moldova and Sweden it is an exclusive responsibility of public authorities, which calls for further research on its impact on institutional autonomy.

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 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 play a role in dismissal slightly more frequently than they do in cases of appointment.

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

Regarding appointment of higher education institutional faculty leaders (Deans or equivalent), the situation remains largely similar with the exception of (much) lower level 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 higher education institutions' highest governing body or an internal higher education institution steering body. Together with these bodies, or through them, staff is responsible in Italy and Holy See. It is exclusively staff responsibility in the case of Azerbaijan, and staff and students' responsibility in Albania and Slovenia. Only in Belgium – French

community, the appointment of deans is exclusively the government/public authority's responsibility. Again, some countries indicated involvement of other actors as well.

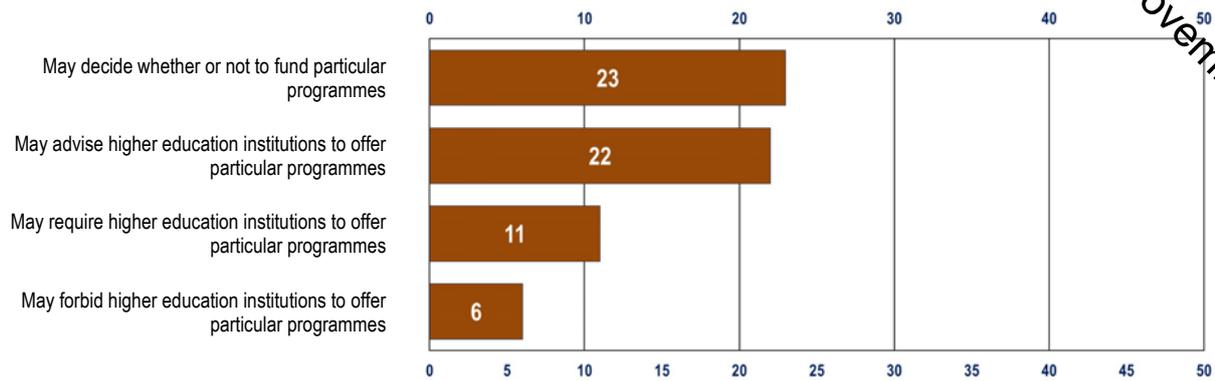
In case of dismissal of higher education institution faculty leaders, again it is the higher education institution bodies that lead: higher education institutions highest governing body and internal higher education institution steering body. Together with them, or within them, in Holy See students and staff are included, as well as staff in Italy. Only in Azerbaijan only staff is responsible for dismissal of deans. Government/public authority is 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 Germany and Georgia it is the faculty council; in Andorra, Finland and Türkiye it is the Rector; and in Greece again the Disciplinary Board. One needs to keep in mind that for all these procedures there are usually multiple bodies and levels of authorities involved, thus the diversity of replies does not fully depict the situations in every specific country but is just giving us a general overview.

Beyond appointment and dismissal of higher education institutions' leaders, an important element to establish the state of affairs regarding institutional autonomy is the extent of the influence of governments/public authorities in the programmes' offer – especially in the contemporary world where we have witnessed prohibition of entire scientific disciplines, or closing of certain departments due to "lack of profitability". The most direct influence on study programmes is certainly reflected in situations when the government/public authority can require or forbid particular programmes, but that remains a possibility only in a minority of countries as shown below in the histogram - Figure 3.8. A more frequent recurrence is that the government/public authority can advise higher education institutions to offer particular programmes, or have a decisive influence through making funding decisions.

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 may require higher education institutions to offer particular programmes, yet Austria still scores very high (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 it is considered as a delicate balancing act – for example, in Spain, the conference where all higher education authorities of Spanish Autonomous Communities participate can make proposals regarding the programmes' offer; however the final decision remains with universities⁴⁷.

⁴⁷ Article 15, Organic Law 2/2023, 22 March 2023.

Figure 3.8 Government/public authority role in higher education institutions' programme offers, 2022



Country data behind the categories (for data verification purposes)

May decide whether or not to fund particular programmes: AL, AM, AZ, BA, BE nI, BG, DE, EE, GE, HR, HU, IT, KZ, LI, LT, LV, ME, NL, NO, PL, RO, TR

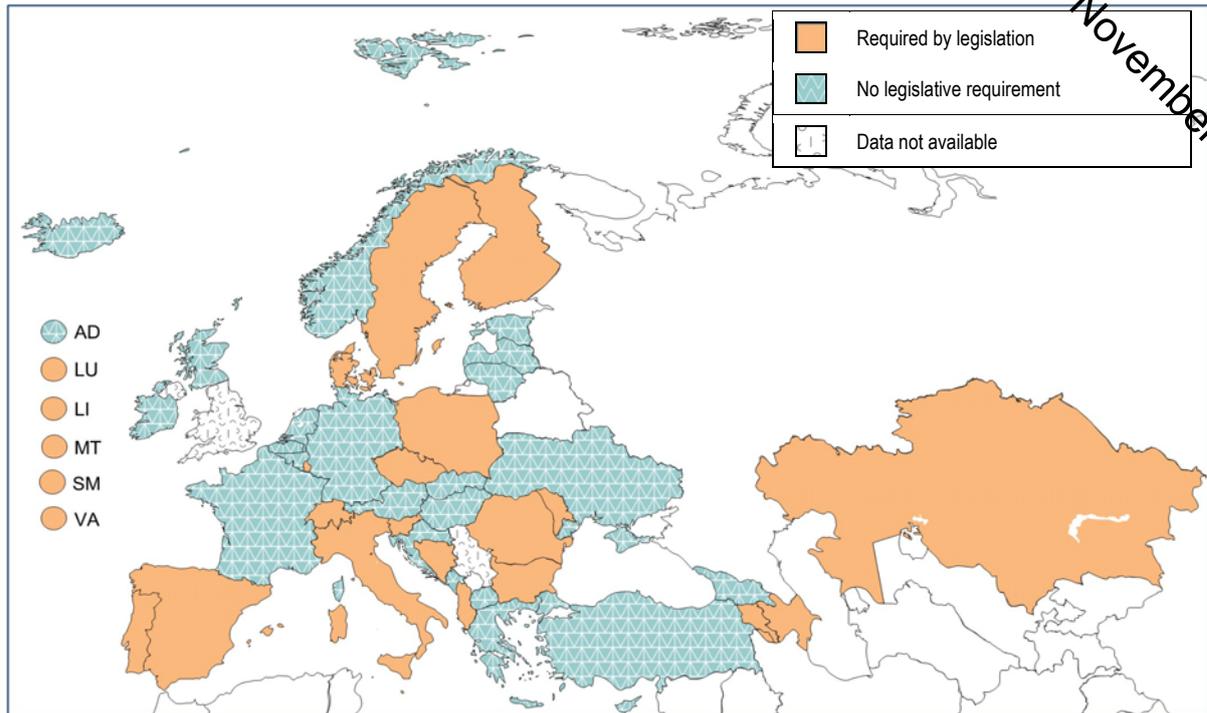
May advise higher education institutions to offer particular programmes: AD, AM, AZ, BA, CY, DE, EL, GE, IE, IS, IT, KZ, LU, LV, MD, ME, MK, MT, PL, RO, SM, TR

May require higher education institutions to offer particular programmes: AD, AT, CZ, EE, FR, IT, LU, LV, ME, NO, SE, UK-SCT

May forbid higher education institutions to offer particular programmes: BE nI, BG, DK, HS, ME, UA

Approximately half of the countries demand external bodies to evaluate the exercise of institutional autonomy in higher education institutions, as the map below – Figure 3.9 - shows, and almost all of them place this demand on an external quality assurance agency. 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, and oversees 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. A possibility of the judicial path in cases of infringement exists in almost all EHEA countries, yet it does not mean that there exist external bodies which are specifically charged for monitoring and evaluation of specific or all fundamental values.

Figure 3.9: Evaluation of institutional autonomy in higher education institutions, 2022/2023



Source: BFUG data collection.

3.4. Participation of students and staff in higher education governance

Student and staff participation are at the core of the principle of self-governance, one of the elements of institutional autonomy but also embedded in the idea of sense of ownership and accountability and responsibility of the members of academic community. Tightly connected to academic freedom, the fundamental value of student and staff participation is expected to allow 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 the decision-making and the decision-taking processes. Democracy within the governance structures of higher education institutions, as well as student and staff organizations, is a key prerequisite for successful development of democratic citizens and exercise of public responsibility of 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 HEIs. ESU's publication Bologna with Student Eyes 2020⁴⁸ has reported some worrying trends regarding the strength of student voices within the HEIs and has underlined the further need to strengthen the principle of collegiality. Election and appointment processes within the representative organizations and governance bodies play a very significant role: students and staff can be indeed present in all relevant structures, but if they are not democratically elected, independent and autonomous the situation cannot be considered as satisfactory. Moreover, financial independence and sustainable funding play a key role in sustaining independence among students and staff representatives. Another project in which European Students' Union participated –

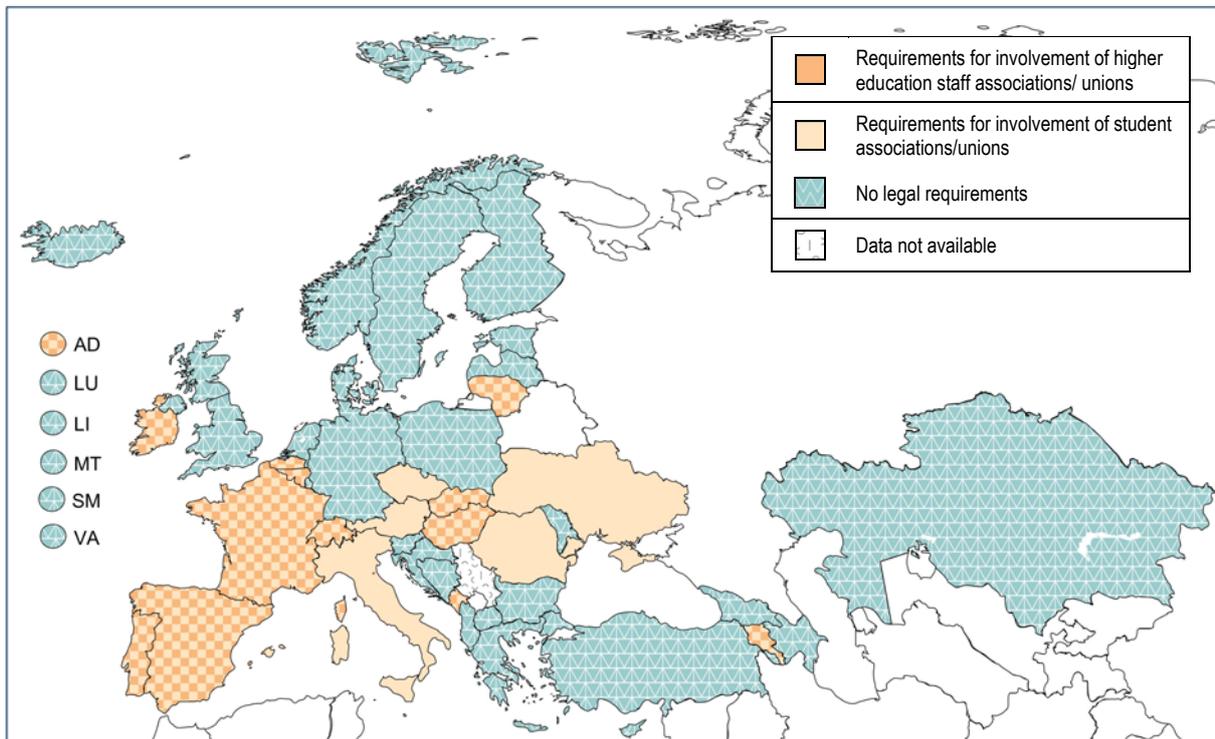
⁴⁸ <https://esu-online.org/bologna-with-student-eyes-2020/>

UNICOMM project (University Community Active Participation Project 2023⁴⁹) – brought more relevant data: only around half of students (49%) claimed they felt part of community at their university; and participation in governance certainly plays a part in this sentiment.

In the previous sections we could have seen the insufficient attention given to academic freedom of students, while infringements of academic integrity are most often considered as infringements made by students, notably through plagiarism and cheating practices. In the section 3.3 on institutional autonomy, the importance of student and staff participation in higher education governance has already been highlighted. It has been concluded that many countries specifically propose legislation regarding the proportions of students and staff in HEIs’ governing bodies – see Figure 3.7, and yet these proportions largely vary.

When developing national higher education policy, various actors can be included through legislative requirements and through habitual practices – when it is not required by legislation, but usually takes place. The map below – Figure 3.10 - outlines the requirements related to student and higher education staff associations and unions. In most countries with such legal requirements, 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. Yet, in these three countries higher education staff associations and unions are usually included. In almost 40% of the countries, even if not a legislative requirement, student associations and unions are usually included. However, according to national responses, students and staff are less frequently included in national policy development, than in HEI governance.

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



Source: BFUG data collection.

Beyond student and staff participation, as another proof of interconnectedness of fundamental values, other actors may be involved in national policy making and institutional governance. An absolute

⁴⁹ www.wolontariat.uw.edu.pl/unicomm

majority of countries requires by law the inclusion of the ministry in charge of higher education. The only exceptions are Azerbaijan, Estonia, Iceland, the Netherlands, Norway, Sweden, Slovenia, San Marino, Türkiye, and the UK (both EWNI and Scotland). However, with the exception of Norway, San Marino and UK EWNI, even if not required by legislation, the ministry representatives are usually involved.

In almost half of the countries surveyed, the law also demands the involvement of ministry or ministries other than the one in charge of higher education⁵⁰. If added to the cases in which it is not required by law but they are usually included⁵¹, it means the absolute majority of EHEA countries also involve other relevant ministries in national higher education policy-making.

Quality assurance and accreditation bodies are less often required by law to be included in policy making endeavours at the national level.⁵² But again, if we add the countries where they are usually involved even if not required by law⁵³, we can see an overwhelming majority of cases in which QA and accreditation bodies actively participate in the national policy making processes.

For associations and networks of higher education institutions, including national rectors' conferences, legal requirements exist in approximately one third of countries⁵⁴ but they are also usually included in another 28 countries. This is not the case, only in the UK - England, Wales and Northern Ireland, San Marino, Norway, Montenegro, and Kazakhstan.

Labour market and employer representatives together with civil society and non-governmental organizations are required to be included in less than a third of countries⁵⁵. In approximately 40% of the countries, these organizations are usually included⁵⁶. 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 organizations are usually included even if not required by law, and that is the same case for labour market organizations in Germany, Estonia, Ireland, Lithuania and Moldova.

In a handful of countries⁵⁷, 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, like in Armenia, Hungary, and Croatia. In Spain, France and

⁵⁰ Countries in which there are legal requirements for other ministries to be involved: Andorra, Armenia, Austria, Belgium- French community, Belgium – Flemish community, Switzerland, Cyprus, Greece, Spain, Georgia, Croatia, Hungary, Ireland, Lithuania, Poland, Portugal, Romania, Türkiye, Ukraine and Holy See.

⁵¹ 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.

⁵² Countries in which there are legal requirements for QA and accreditation bodies to be involved: Andorra, Armenia, Austria, Bosnia and Herzegovina, Belgium – Flemish community, Switzerland, Czechia, Greece, Spain, Georgia, Hungary, Ireland, Italy, Montenegro, Malta, Portugal, Romania, Ukraine and Holy See.

⁵³ Countries in which there are no legal requirements for QA and accreditation bodies to be involved but they are usually included: Albania, Azerbaijan, Bulgaria, Cyprus, Germany, Estonia, Finland, Croatia, Iceland, Lithuania, Luxembourg, Latvia, Moldova, North Macedonia, the Netherlands, Poland, Sweden, Slovenia, Slovakia, Türkiye, and UK Scotland.

⁵⁴ Countries in which there are legal requirements for associations and networks of HEIs, including national rectors' conferences to be involved: Andorra, Armenia, Belgium – French community, Belgium – Flemish Community, Switzerland, Czechia, Spain, France, Hungary, Ireland, Lithuania, Portugal, Romania, Slovakia and Holy See.

⁵⁵ Countries in which there are legal requirements for labour market and employer representatives, and civil society and non-governmental organizations to be involved: Andorra, Armenia, Bosnia and Herzegovina, Belgium – Flemish community, Switzerland, Spain, France, Croatia, Hungary, Montenegro, Romania, Ukraine and Holy See.

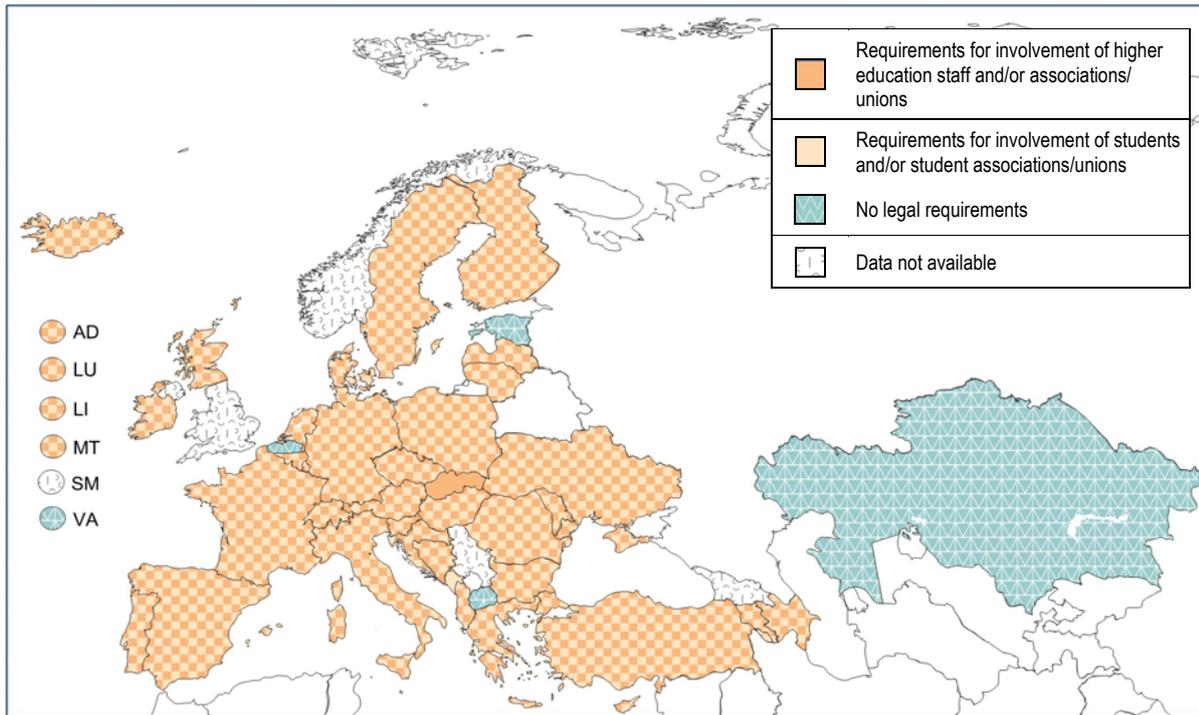
⁵⁶ Countries in which there are no legal requirements for labour market and employer representatives, and civil society and non-governmental organizations to be involved but they are usually included: Austria, Azerbaijan, Bulgaria, Czechia, Finland, Georgia, Iceland, Italy, Latvia, North Macedonia, Malta, the Netherlands, Poland, Portugal, Sweden, Slovenia, Türkiye and the UK – Scotland.

⁵⁷ Countries in which there are legal requirements to include other actors: Armenia, Belgium – Flemish community, Spain, France, Croatia, Hungary, Ireland, Sweden, Ukraine and Holy See.

Ukraine, for example, it is representatives of regional governments and/or local authorities. Sometimes this refers to national or international individual experts, like in Andorra and Finland.

Looking at the institutional level, and 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, we can note that it is already a widespread practice. When not required by law, in a small number of countries student and/or student representatives usually participate (Belgium – Flemish community, Estonia, Kazakhstan, North Macedonia, and Holy See) and the same for staff/staff trade union representatives (Belgium – Flemish community, Estonia, Kazakhstan, Montenegro, North Macedonia, and Holy See).

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



Source: BFUG data collection.

In a small number of countries, other groups are required by law to participate in HEIs internal steering bodies⁵⁸, or not required but they usually participate only in three countries: Montenegro, Ukraine and Holy See. In Spain this refers to society representative(s) through the Social Council, or in France again local authorities; or in Montenegro NGOs. In Poland, it is expected that 50% of the higher education institutions' council should be external members.

It can be concluded that while students and staff are overwhelmingly present in the higher education institutions' internal steering bodies, student and staff associations and unions are much less present in national policy making procedures. But the important question is who decides on the decision-making responsibilities of higher education institutions' internal steering bodies, and in a bit less than half of the countries this takes place through legislation⁵⁹. In about a third, it is both the legislators and

⁵⁸ Countries in which other groups are required to be involved: Andorra, Spain, France, Ireland, Malta, Slovenia and Slovakia.

⁵⁹ Countries in which the decision-making responsibilities of HEIs' internal steering bodies are regulated in legislation: Albania, Austria, Azerbaijan, Bosnia and Herzegovina, Belgium – French Community, Cyprus, Denmark, Greece, Finland, France, Croatia, Lithuania, Luxembourg, Latvia, Moldova, North Macedonia, Portugal, Slovenia, Türkiye, Ukraine, and Holy See.

the institutions' themselves deciding⁶⁰. For approximately 20% of the countries, this is an exclusive competence of higher education institutions' internal steering bodies⁶¹. In Switzerland the situation varies from canton to canton; and in Estonia it varies depending on the type of decisions being made.

When regulated through legislation, in a small number of countries it is clearly stated in which decisions staff and students cannot participate: Malta, Poland, Portugal, Sweden and Türkiye. In France, this is only clear for students in decisions regarding employment of teacher-researchers⁶². Students in Poland are not allowed to take decisions regarding academic degrees⁶³. Also in Türkiye student participation remains related to “student problems of the faculty, conservatory, or vocational school it represents”⁶⁴. Half of the countries gives the right to students and staff to participate in all decisions⁶⁵: This however does not necessarily mean that students and staff can also fully participate in decision-taking, making it for another argument why such a differentiation is important for future monitoring purposes.

3.5. Public responsibility for and of higher education

These 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 by other parts of the report. While 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.

With regard to public responsibility for higher education, much of the information presented throughout the report can be considered relevant. 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 is addressing 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 Observatory⁶⁶ which captures the latest funding trends. The data is laid out in a series of reports and the interactive online tool⁶⁷, which is updated annually and currently contains data from 34 systems, with the latest data from 2020/2021. Public responsibility for higher education, mainly

⁶⁰ Countries in which the decision-making responsibilities of HEIs' internal steering bodies are regulated both by legislation and by the institutions' themselves: Andorra, Czechia, Spain, Hungary, Ireland, Iceland, Italy, Liechtenstein, Malta, the Netherlands, Poland, Romania, Sweden, and Slovakia.

⁶¹ Countries in which the decision-making responsibilities of HEIs' internal steering bodies are regulated by the institutions: Armenia, Belgium – Flemish community, Bulgaria, Germany, Estonia, Kazakhstan, Latvia, Montenegro, and the UK – Scotland.

⁶² Available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000042812951

⁶³ Art 31. 4 of the Law on Higher Education.

⁶⁴ Available at: <https://www.resmigazete.gov.tr/eskiler/2020/06/20200613-5.htm>

⁶⁵ Countries which give the right to students and staff to participate in all decisions: Andorra, Albania, Austria, Azerbaijan, Belgium – French community, Bulgaria, Cyprus, Czechia, Greece, Spain, Finland, Croatia, Hungary, Kazakhstan, Lithuania, Luxembourg, Latvia, Moldova, Malta, the Netherlands, Portugal, Romania, and Slovenia.

⁶⁶ Available at: <https://eua.eu/resources/projects/586-public-funding-observatory.html>

⁶⁷ <https://efficiency.eua.eu/public-funding-observatory>

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 gives further insight into the level of involvement in protection and promotion of fundamental values by national authorities.

This responsibility is also being exercised at regional and local level, or supra-national level. Public authorities are also expected to ensure the implementation of freedom to learn and provision of anti-discriminatory frameworks which would allow so, which we can identify through some of the data analysis on social dimension.

Regarding the public responsibility of higher education, a new scorecard indicator 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 further be at the forefront of implementation and promotion of all other fundamental values, bearing a responsibility in communicating research results, and sharing the knowledge with wider society actively engaging in everyday common search for tackling challenges of our contemporary world. While this report focuses more on the national and system level situation, further monitoring would have to encompass also activities of higher education institutions in promotion of fundamental values and communication of research results to and within society.

3.6. Conclusions

This chapter takes a first step towards the monitoring of the EHEA fundamental values - one defined in the Rome communiqué – academic freedom, and the other five as proposed in draft statements to be submitted for adoption at the forthcoming Ministerial meeting in Tirana in 2024. In parallel, the NewFAV project is finalizing the Technical Framework for Monitoring of Fundamental Values and after consultations with the BFUG WG on Fundamental Values will be submitted for adoption and further development. The focus of this exercise is on legal protection of values, and as such represents a limited exercise. However, in the process important observations did appear.

De jure assessments presented within this report must 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 mere 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 if national definitions of values align or diverge with the concepts of the EHEA FV statements. From analysis of national definitions of academic freedom, it is clear that 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 only in legislation in two countries (Latvia and North Macedonia).

The attention given to academic integrity seems to be on the rise throughout the EHEA, and yet different phenomena have a higher incidence and thus importance in different countries. Plagiarism seems to be identified by all member states as the most burning issue, while academic fraud and contract cheating did not receive the same attention by public authorities.

Governance issues and institutional autonomy are issues which will require in future monitoring exercises to look beyond the national and system levels, and take into account the current EHEA developments and inquire into the situation within European University Alliances and other trans-institutional structures. At the same time, in the EHEA we face the diversity of governance structures and each of these systems will need to be assessed in their proper contexts. De facto information will be required to assess how governance structures actually work in the everyday life of the institutions.

Of all existing assessment and monitoring tools, the EUA Autonomy Scorecard has been identified as the most usable for an indispensable comparative and possibly, corrective tool to the self-reporting within BPIR; certainly accompanied by BWSE and already well established AFI, or future European Parliament's and/or European Commission's academic freedom monitoring mechanisms.

While the current data provides us with an initial assessment of de jure implementation of student and staff participation in HE governance, de facto assessment would require de facto assessments also by stakeholders themselves, most notably student and staff associations and unions. Given that student and staff participation in governance is better established at the institutional than at the national levels, this is an important element to observe in order to understand how and if public authorities are promoting participation also through the inclusion within the national policy development processes.

On a general level, there seems to be an urgent need to adopt the corresponding definitions for each and every of fundamental values of the EHEA in order for public authorities and all stakeholders to be able to further operationalize their implementation and to bring back the backbone of the EHEA beyond the technical structures, back to the core mission and vision of higher education in Europe.