

SAR Europe submission: Mid-Term Review of the EU Action Plan on Human Rights and Democracy 2020-2024.

5 December 2022

Scholars at Risk Europe welcomes the opportunity to contribute to the mid-term review of the EU Action Plan on Human Rights and Democracy 2020-2024. This review comes at a time when the status of academic freedom is deteriorating in some parts of Europe and the world. According to Scholars at Risk's [Academic Freedom Monitoring Project](#), attacks on scholars, students, staff, researchers, scientists, and their institutions are occurring with frequency, even within democracies. [Free to Think 2022](#) documents 391 attacks on higher education communities in 65 countries and territories, from September 1, 2021, to August 31, 2022, while the latest data from the [Academic Freedom Index](#) confirmed that almost two out of five people around the world live in countries which have experienced a substantial decline of academic freedom in the past ten years.¹ This stands in contrast to the majority of states around the world that have legally pledged themselves to respect academic freedom.² Through a series of declarations, strategies, recommendations and action plans, the EU has affirmed its commitment to respecting, protecting and fulfilling academic freedom, both within the EU and globally.³

The EU Action Plan on Democracy and Human Rights 2020-2024 articulates the EU and its Member States determination to support action to protect academic freedom and the autonomy of education institutions, as well as members of the academic community at risk, through the EU's global human rights policy. Since the publication of the Action Plan, academic freedom has been included in the 2021 EU Annual Report on *Human Rights and Democracy in the World*,⁴ an European External Action Service (EEAS) training seminar on human rights,⁵ and an EEAS convened meeting of the geographic desks and the human rights division. The EUSR for Human Rights, Mr Eamon Gilmore, has demonstrated public engagement with the issue,⁶ and EEAS staff have confirmed that academic freedom is being raised in human rights dialogues. SAR was also invited by the EEAS to present on Free to Think 2022 at a meeting of COHOM. SAR Europe welcomes these actions, as important steps towards increasing awareness of the importance of academic freedom in the EU's foreign policy.

In making these five recommendations, SAR Europe seeks to build on the work already underway via the EU Action Plan on Democracy and Human Rights 2020-2024 to promote academic freedom and protect at risk members of the academic community.

- (1) **Guidelines on Academic Freedom:** Adopt guidelines that articulate the scope of academic freedom, and how it can be implemented in practice. The guidelines should also outline the different protection mechanisms available to at risk members of the academic community. Such guidelines would be useful in providing strategic, political and operational guidance to officials and staff of EU Institutions and EU Member States. Guidance on implementing academic freedom in laws and policies (de jure implementation) and in practice (de facto implementation), could also be used in contacts with third countries and with international and civil society organisations. In this respect

¹ Academic Freedom Index (AFI) Update 2022, see <https://www.v-dem.net/our-work/research-programs/academic-freedom/>

² "Article 15 (3) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states that the 'States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity'. Out of 193 UN member states, 171 have ratified the ICESCR, and not a single one has filed a reservation on the right to science. This means that a very large majority of states around the world have made a legally binding commitment to uphold academic freedom and have accepted UN monitoring as well as peer review by other states." See Katrin Kinzelbach, Ilyas Saliba, Janika Spannagel, and Robert Quinn, 'Putting the Academic Freedom Index Into Action' (March 2021) pg. 16, available here: https://gppi.net/media/KinzelbachEtAl_2021_Free_Universities_AFI-2020_upd.pdf

³ For a list of commitments consult SAR Europe Resource page available here: <https://sareurope.eu/sar-resources/academic-freedom-policymaking/>

⁴ *Human rights and democracy in the world (2021 Report pg.109)*.

⁵ Read a note about this event here: <https://sareurope.eu/sar-europe-addresses-eeas-human-rights-training-seminar/>

⁶ For example, see <https://twitter.com/EamonGilmore/status/1520084931568975872>

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we recommend the EEAS to explore the feasibility of developing EU Guidelines on Academic Freedom, similar to the EU Human Rights Guidelines on Freedom of Expression Online and Offline. However, regardless of the form that any guidelines should take they should clearly articulate that academic freedom is a right, recognised in the international human rights regime, grounded in freedom of expression, the right to education, and the right to benefits of scientific progress.⁷ This recognition is essential as violations of academic freedom are too often categorised as violations of other rights, especially freedom of opinion and expression, and as a consequence, the intent and motive behind the attack is often obscured. For these reasons, scholars and students, who face consequences for exercising their right to academic freedom should be considered human rights defenders, and have access to relevant support measures for HRDs.⁸

- (2) **Assign a clear point of contact/entry point within the EU for academic freedom related matters, such as a dedicated Special Rapporteur, dedicated office or Ombudsperson.** There is significant experience and in some cases, active policies and initiatives, in support of academic freedom and researchers at risk across a number of EU directorates, including DG Education, DG Home, DG Research, DG NEAR, as well as the EEAS. In the absence of a clear point of contact/entry point within the EU for academic freedom related matters, such as a dedicated Special Rapporteur, dedicated office or Ombudsperson, it is not clear whether there is regular coordination between the various directorates, and the extent to which there are fixed pathways of communication between those leading these initiatives. To ensure the work being done through this Action Plan on Human Rights and Democracy complements the implementation of the EU's internal actions, including the European Democracy Action Plan,⁹ there is a need to create a dedicated Special Rapporteur, dedicated office or Ombudsperson to achieve internal-external policy coherence. This role/office will also work to ensure that related matters emerging from the European Higher Education Area, the Council of Europe, and the United Nations are recognised in a timely manner, and where appropriate, integrated across the various policy initiatives.
- (3) **Monitoring and Reporting on Academic Freedom:** Expansion of monitoring and reporting of attacks on scholars and academic freedom is required. There is an urgent need to (a) collect more data on attacks, threats and undue restrictions on academic freedom and individual scholars and students around the world and (b) ensure reporting on academic freedom in official records, reports and action plans of national, regional and international human rights mechanisms. The EU Delegations have a significant role to play in reporting on academic freedom and attacks on scholars and students in the countries to which they are assigned. When EU Heads of Mission provide periodic reports on the human rights situation in their respective countries of accreditation, reporting on academic freedom could be included. To support the development of this work, we recommend reviewing the annual EU report on *Human Rights and Democracy in the World*, with a view to creating a new section on attacks on scholars. This will complement the new section on academic freedom that was included in last year's publication, and reflect a similar section dedicated to journalists.¹⁰ A more complete base of evidence will lead to more robust global monitoring, and provide a basis for advocates to raise awareness, hold perpetrators to account and improve efforts to prevent and respond to attacks on academic freedom. The Academic Freedom Index and SAR's Academic Freedom Monitoring Project provide good starting points. Promising work has also been initiated by the European Research Area,¹¹ the European Higher Education

⁷ A concise articulation of academic freedom and its protection under international law, can be found on the SAR website, available here: <https://www.scholarsatrisk.org/resources/academic-freedom-and-its-protection-under-international-law/>

⁸ See Robert Quinn & Jesse Levine (2014) Intellectual-HRDs and claims for academic freedom under human rights law, *The International Journal of Human Rights*, 18:7-8, 898-920, DOI: 10.1080/13642987.2014.976203 To link to this article: <http://dx.doi.org/10.1080/13642987.2014.976203>

⁹ European Democracy Action Plan, para. 4.3, recognises that everyone has a “role to play in combatting disinformation and misinformation” and as a consequence, aims to ensure that “academic freedom in higher education institutions is also at the core of all higher education policies developed at EU-level”. Available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0790&from=EN>

¹⁰ See https://www.eeas.europa.eu/eeas/eu-annual-reports-human-rights-and-democracy_en

¹¹ European Research Area Policy Agenda 2022-2024, Action 6, “Deepening the ERA through protecting academic freedom in Europe”, pg. 9, available here: https://research-and-innovation.ec.europa.eu/system/files/2021-11/ec_rtd_era-policy-agenda-2021.pdf

Area/Bologna Follow-Up Group¹² as well as the European Parliament.¹³ Strong coordination and coherence between the EU's internal and external actions in the areas of human rights and higher education is now required in order to extend monitoring efforts to more countries, more regions, and more languages, and to expand their use by policymakers in order to achieve broad and lasting impact.

- (4) **Trainings on Academic Freedom and related Higher Education Values.** Commit to regular training on academic freedom for EU delegates including heads of political sections in EU delegations; human rights focal points in EU delegations; political officers in geographic departments dealing with human rights; policy and programme officers in the European Commission (external Directorates General) dealing with human rights, as well as members of the EEAS Human Rights Division, geographical desks, and any other relevant offices, including those of the Member States. The trainings should introduce the meaning and scope of academic freedom; its protections under existing international human rights law; related international, regional and national standards; how academic freedom intersects with its constituent freedoms of expression, opinion, thought, association, and travel; the societal implications when academic freedom is repressed; practical strategies and policies to protect academic freedom on the ground, and the extent to which the EU's human rights instruments can be invoked in the protection and support of this right.
- (5) **Harness the human rights instruments at the EU's disposal to promote and protect academic freedom,** including: raising awareness of attacks on scholars and students by publicly acknowledging them, including through written statements and démarches, and by raising the issue of academic freedom at all levels, including through political dialogues, high level visits, and trial and prison monitoring. Incorporate into the above actions tools such as the Academic Freedom Index and SAR's Academic Freedom Monitoring Project which together provide a solid base when identifying and monitoring countries where academic freedom is at risk.

These recommendations should contribute to four identifiable outcomes:

1. Increased visibility of the threats facing scholars, students and academic freedom will improve efforts to prevent and respond to attacks, which may help develop existing standards of protection;
2. Increased awareness will strengthen the capacity of local, regional and international academic freedom advocates to press states, intergovernmental, regional and supranational bodies to protect scholars, students and academic freedom and increase accountability for attacks;
3. Increased monitoring will provide EU Institutions and Member States with data on academic freedom conditions in other countries to increase their understanding of the environment in which their international activities are undertaken; and
4. Increased support and reinforcement of the actions already underway as part of the EU's higher education and migration policy agendas, as well as the actions to support human rights defenders, thereby creating synergies between these areas of work.

In addition to these direct outcomes, recognising the link between academic freedom and democratic values, a secondary outcome would be to reinforce the role of higher education communities in safeguarding democratic values inside and outside the EU.

¹² Learn more about the EHEA, as well as the Working Group on Fundamental Values tasked with developing a framework for the enhancement of the fundamental values of the EHEA here, <https://sareurope.eu/sar-resources/european-higher-education-area-academic-freedom-policy-making/>

¹³ The 28th of November 2022 marked the launch of the European Parliament Forum for Academic Freedom, learn more here, <https://www.europarl.europa.eu/stoa/en/events/details/how-to-provide-enforceable-protection-fo/20221103WKS04661>

About Scholars at Risk Europe

Scholars at Risk Europe is the European office of the global Scholars at Risk network. Scholars at Risk was founded in 2000 and is an international network of over 650 higher education institutions in 43 countries working to protect threatened scholars and to promote academic freedom. SAR's European office, hosted by Maynooth University, Ireland, supports and coordinates the activities of 13 Scholars at Risk sections and 11 partner networks across Europe to strengthen our collective voice at the European level and contribute to informed policymaking for the greater protection of scholars and increased respect for academic freedom worldwide. SAR Europe coordinates [Inspireurope+](#) an EU-funded, multi-partner initiative to support researchers at risk, as well as the consortium implementing [MSCA4Ukraine](#). SAR Europe also works to expand, coordinate, and support advocacy in Europe to promote academic freedom, including convening the European Coordinating Committee for Academic Freedom Advocacy. SAR Europe was granted Observer Status with the Council of Europe Steering Committee for Education ([CDEDU](#)) in 2021. SAR Europe is a member of the Coalition Against SLAPPs in Europe ([CASE](#)), and the Human Rights and Democracy Network ([HRDN](#)). For additional resources on academic freedom please consult our [website](#).

SAR Europe is ready to help with follow-up to these recommendations, as appropriate. Please contact Denise Roche, Advocacy Manager, at denise.roche@mu.ie with any questions.