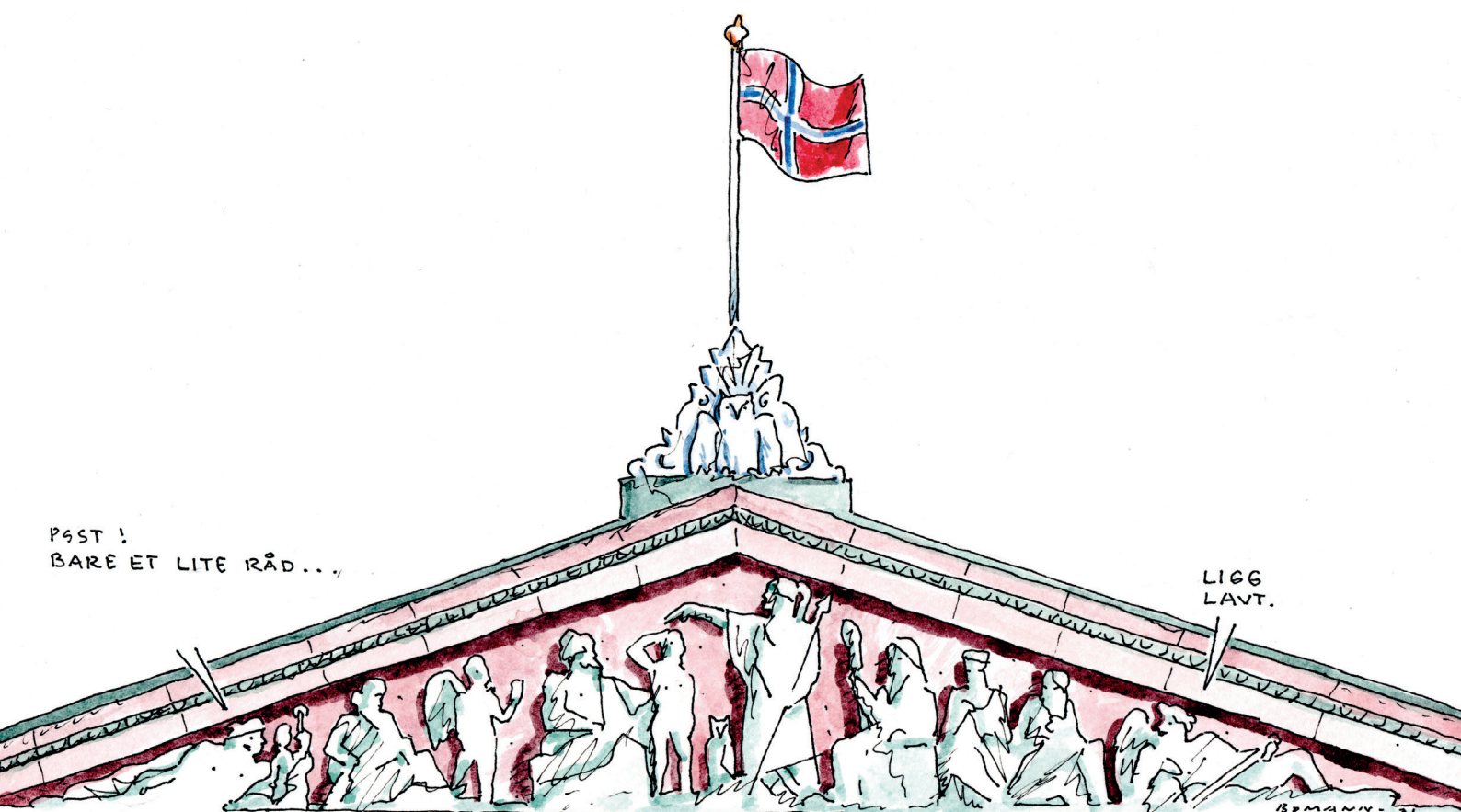


Norwegian Ministry of Education and
Research

Official Norwegian Reports NOU 2022: 2

Academic freedom of expression

A good culture of free speech must be built from the bottom up, every single day



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To the Ministry of Education and Research

The Expert Group for Academic Freedom of Expression was appointed by the Ministry of Education and Research on 20 July 2021 to investigate issues relating to academic freedom of expression. The Commission is pleased to present its report.

Oslo, Norway, 21 March 2022

Anine Kierulf
Chair

Saira Basit

Gunnar Bovim

Magnus Dybdahl

Vidar Helgesen

Sofie Høgestøl

Kari Bjørke
Head of the secretariat

Izabela E. Buraczewska

Rolf L. Larsen

Contents

1	Summary	7	5	Current framework	42
2	Mandate, composition, form of work	14	5.1	Regulations	42
2.1	Mandate and appointment	14	5.1.1	The Constitution and human rights	42
2.2	Working method and input	15	5.1.2	The Universities and University Colleges Act	46
2.2.1	The Commission's work	15	5.1.3	Other regulations of importance for academic freedom of expression	49
2.2.2	Input	15	5.1.4	Regulations for international collaboration	51
2.2.3	Knowledge base	17	5.2	The governance system for universities and university colleges including the funding system	51
3	Academic freedom of expression – interpretation, delimitation and grounds	21	5.2.1	Management by objectives and results	51
3.1	What is academic freedom of expression?	21	5.2.2	Funding – the higher education sector	53
3.1.1	Introduction	21	5.2.3	Reporting of dissemination activities	55
3.1.2	What is academic freedom of expression relative to academic freedom and freedom of expression?	21	5.3	Position structure and career paths today	56
3.1.3	What part of the academic mission is academic freedom of expression particularly relevant to?	24	5.4	Research – scope and funding	59
3.1.4	Delimitations	26	5.4.1	Research – actors and scope	59
3.2	Why is academic freedom of expression important?	27	5.4.2	Funding of research	60
4	Academic freedom of expression internationally	31	5.5	Norwegian academic and technical language	61
4.1	Introduction	31	6	Challenges to academic freedom of expression	64
4.2	Challenges	31	6.1	Introduction	64
4.2.1	Online attacks on knowledge and stewards of knowledge	31	6.2	Influences on content, methods, results and dissemination	66
4.2.2	Developments in selected countries: challenges to academic freedom	32	6.2.1	Political, structural and academic priorities	66
4.2.3	Academic freedom and collaboration with challenging states	35	6.2.2	Institution vs. individual – who is responsible for ensuring quality? ..	67
4.3	Different types of initiatives to protect and strengthen academic freedom	36	6.2.3	Controversial research topics	67
4.3.1	Alliances	36	6.2.4	External influences	68
4.3.2	Guidelines, declarations and policy statements	37	6.2.5	Media and communication	69
4.3.3	Campaigns and support initiatives	37	6.3	What academics can comment on as academic staff	71
4.3.4	Legislative protection of academic freedom of expression	37	6.3.1	Representation, use of titles and reputation	71
4.4	International organisations, etc. ...	38	6.3.2	Loyalty and uniforms	73
4.5	Human rights violations: the SAR and StAR schemes	41	6.3.3	Rules and guidelines that limit academic freedom	75
			6.3.4	Academic freedom of expression in a changing geopolitical landscape	78

6.4	Institutional and structural prerequisites	81	7.3.1	Dissemination as an element in the development agreements	106
6.4.1	New forms of governance and management in academia	81	7.3.2	Dissemination indicator in the funding system	106
6.4.2	Foreign researchers in Norwegian academia	81	7.3.3	Easier reporting of dissemination	108
6.4.3	Temporary positions – employment – career	83	7.4	The institutions’ responsibilities ..	108
6.4.4	The funding system	85	7.4.1	Declaration on academic freedom of expression	108
6.4.5	External funding	85	7.4.2	Management – institutional and individual	109
6.4.6	Norwegian in academia	85	7.4.3	Training and cultural development	115
6.5	Culture of free speech	86	7.4.4	Assessment of academic careers, appointments and reward systems	121
6.5.1	Reactions from colleagues – difficult climate of debate	86	7.4.5	Dissemination aimed at the general public as a component of doctoral degrees	122
6.5.2	Culture of conformity	88	7.4.6	Norwegian in academia	123
6.5.3	Cancel culture, deplatforming, marginalisation	89	7.5	Academics’ responsibilities: Advice to promote good dissemination	126
6.5.4	Populism, politicisation and misinformation	91	7.6	Advice to the authorities	126
6.5.5	Harassment and threats	91	7.6.1	National	126
6.5.6	Summary: Self-censorship	92	7.6.2	Internationally	128
7	Measures	94	7.7	Summary	129
7.1	Governance and awareness raising	94	8	Economic and administrative consequences	133
7.2	Regulations	94			
7.2.1	Introduction	94			
7.2.2	Amendments to the Universities and University Colleges Act	95			
7.2.3	Assessment of the Constitution and other regulations	101			
7.3	Changes in the governance of universities and university colleges	106			

Chapter 1 Summary

The Commission's mandate is to describe possible threats to academic freedom of expression, partly in light of international developments. The Commission shall provide a basis for discussing the prerequisites for scholarly contributions to public debates and propose measures to provide a clearer framework for scholars' academic freedom of expression and the responsibilities incumbent on the institutions to promote this.

The mandate focuses on academic staff at universities and university colleges. However, greater understanding of what academic freedom of expression is, why it is fundamental to the development of society, and how it can be exercised is important for a wider audience: students, other types of employees in the higher education sector, the owners of universities and university colleges, and employees in the institute sector and health trusts. The Commission's assessments also apply to them, insofar as they are appropriate.

The Commission has been tasked with «investigating issues relating to academic freedom of expression». Chapter 3 presents academic freedom of expression functionally, pertaining to the mandate, as an aspect of both academic freedom and freedom of expression. It describes why this particular freedom is important.

Academic freedom of expression is a precondition for the exercise of academic freedom on the individual level, in all the traditional areas of academic work – research, teaching and dissemination. In light of the mandate, the Commission has found academic freedom of expression's significance for *dissemination* to be its main focus point. Academic freedom of expression and research dissemination are closely interlinked – they both function as knowledge-based, truth-seeking communication. Dissemination is important within academia, among peers and between and among the administration, staff and students. Academic free speech is also crucial for the fulfilment of academia's broad civic mission through dissemination to the broader public – as communication of

knowledge from experts to the public, and vice versa.

The Commission regards academic dissemination as broader than the mere dissemination of what the individual scholar has researched or taught. It also includes communicating knowledge about one's own field of study in a broad sense, other scholars' findings, insights one has due to one's academic training, discussion of scientific practices and methods, and of the institutional and structural factors that form the framework for academic work. Moreover, dissemination is not just one-way: it can also be multi-way and communicative. This kind of communicative interaction is crucial not only for the effectiveness of the dissemination activity per se, but also for academia to obtain important information about and correctives from the broader public. This strengthens academia's understanding of society and therefore also the quality of academia.

Freedom of expression as a legal right protects people's opportunity freely to express their ideas and opinions on whatever topic they want, however they want, and to receive opinions and information from others. The grounds for this freedom are the seeking of truth, the promotion of democracy and the individual's freedom to form opinions. Everyone (including academics) enjoys this protection for their freedom of expression. In essence, it protects all expressions, including those that are stupid, shocking, irrelevant, emotional and irrational.

Academic freedom of expression, by contrast, is subject to certain quality requirements. These quality requirements consist of the norms and standards that apply in the academic community. They can also relate to the *content* of academic expressions, such as use of scientific methods, representativeness and ethics. They can also set guidelines regarding the *form* in which academic expressions are made, such as their objectiveness, transparency, impartiality and fair representation of opposing arguments.

The quality requirements underline that academic freedom of expression also entails a *responsibility of academic expression*. This responsibility has two dimensions. First, academics have a responsibility to adhere to the norms for scientific quality that apply in their field of research and the norms regarding objectivity and impartiality that enable debate. Second, they have a responsibility to help ensure that other academics also adhere to these norms; for example, through peer review and the advancement of alternative hypotheses, or by challenging ideas using counter-arguments in debates. This is not a legal responsibility, but rather a professional one.

Ensuring that academic dissemination meets the quality standards is not a case for the state, through legal means or political pressure, nor for the academic institutions as such. It is a case for peers within the academic community, by the use of knowledge-based arguments and scientific methods.

Of the three grounds for the statutory freedom of expression, it is the seeking of truth that is particularly relevant to the academic freedom of expression. This means that the protection of this freedom is and must be strong – not out of consideration for the individual scholar, but for our common interest in developing new, quality-based knowledge and gaining new insights. Academic freedom of expression is also central to promoting several of the ideals underlying the rule of law and democracy:

In order for the state to fulfil its duty to «create conditions that facilitate open and enlightened public discourse» (cf. Article 100 (6) of the Norwegian Constitution), someone must contribute to enlightenment. Democracy is advanced by challenging established truths and constantly seeking new knowledge. Academic expressions can enhance understanding of the importance of diversity and inhibit conformity and uniformity. They can build trust. Research and innovation are crucial to resolve the major challenges in society today, such as understanding crisis, war and conflict, slowing climate change, preserving the natural environment, preventing an energy crisis, promoting public health and quality of life, and reducing inequalities. Good dissemination of results from research and innovation can also provide a competitive advantage. Academics should participate actively in the ongoing public discourse. This is decisive for a dynamic democracy, as well as serving to raise academic standards. Findings from research must be communicated not only to peers, but also to society at large.

The edited media largely share the same civic mission as academia in respect of seeking the truth and helping people understand the world (i.e. «enlightenment»). A more diverse media landscape with new digital and fully or partially unedited media and platforms allows more players to set the agenda. The exchange of information has increased tremendously, in both quantity and speed. Online public spheres are changing the way society acquires knowledge of the world. The absence of editors and other «gatekeepers» can be liberating and enable the exchange of more controversial findings and ideas. Without them, however, quality assurance, ethical considerations and attempts at balance in the presentation of ideas also disappear. The opportunities that the internet creates for the exchange of academic information also gives rise to new challenges: online public spheres generate huge volumes of incorrect information, for academics and the general public alike, which it is demanding to detect and correct.

Protecting and promoting academic freedom of expression is a significant global challenge. In his report to the UN General Assembly in 2021, the UN Secretary-General said «the war on science must end» and that the world must defend a common, empirically backed consensus around facts, science and knowledge. Online misinformation and integrity in public information are high on the UN agenda for 2022. In many countries, the authorities are obstructing open and free national and international research collaboration and dissemination in a variety of different ways. This is also happening in our surrounding areas. Collaboration with certain countries requires adherence to special rules to exercise due diligence. Chapter 4 describes some of the international trends and developments mentioned in the mandate that are affecting academic freedom of expression, and how organisations and individual countries are addressing them.

Academic work is regulated, funded and directed through a variety of mechanisms. General freedom of expression, which also protects academic expressions, is legally protected in the Constitution and through various human rights conventions. Elements of this freedom and the responsibilities that come with it can be found in the Norwegian Universities and University Colleges Act, Working Environment Act, Equality and Anti-Discrimination Act and Penal Code, among others. The relevant rules and tools of governance are discussed in chapter 5.

The Commission has received input on dilemmas and challenges related to academic freedom of expression. These are discussed in chapter 6. Together with the mandate, these form the point of departure for the Commission's work. On a general level, they can be seen as challenges *from above* – from the authorities and clients who provide funding and make decisions, *from below* – from the broad public spheres in which scholars operate in various ways, *from within* – internally in academia, from and between management, colleagues and students, and *from the outside* – as influence from and interaction with the national, international and geopolitical landscapes of which academia is a part.

The challenges take many forms: political and structural priorities, funding, rules and guidelines as a framework for academic freedom of expression, security assessments, tensions within academia, an uncollegial climate of debate, a culture of conformity, cancel culture, disagreements about quality control, and challenges in connection with external dissemination and communication, such as populism, politicisation and media challenges. A harsh debate climate can be particularly demanding, not least for those working on controversial academic topics.

The Commission has not attempted to assess how extensive or representative the various challenges are. The purpose of highlighting them is to provide a general overview of the «perceived threats» facing academic freedom of expression. In Norway, the perceived threats are not related to classical censorship, whereby people in positions of power deny others the opportunity to impart or receive the information they want. The threats are rarely linked to legal issues with freedom of expression, but rather problems in the arena of expression. In varying ways, they have a dampening effect on what academics dare or want to share or discuss. In this way, they contribute to the most effective form of censorship: self-censorship.

Many of the challenges cannot be averted through the implementation of concrete measures. However, some can be remedied to a certain degree. The descriptions in chapter 6 form the basis for the measures the Commission proposes in chapter 7. These measures are not an end point, but rather a starting point for the further, ongoing development of academic freedom of expression throughout the entire sector.

The measures range from proposals for amendments to the Universities and University Colleges Act and the current governance instru-

ments and training requirements, to specific advice for various actors within academia. It is our clear impression that «hard» instruments, such as legislation and funding mechanisms, while necessary, are far from sufficient to ensure good academic freedom of expression. Many of the consultative statements the Commission has received suggest that organisational culture, good management, openness, transparency, discourse and training that continuously raise awareness are essential to develop a better culture of free speech in academia.

This kind of culture cannot be imposed from above; it must be built, not least from the bottom up, every single day. In order to stimulate the building of this kind of culture, the Commission has prepared a draft declaration on academic freedom of expression. The idea is that it can act as a springboard for discussion and raising awareness about academic freedom of expression at the institutions. The text is offered as a proposal; it is not intended to be regarded as a requirement or order. It can – and should be – criticised, modified and adapted locally. See figure 1.1.

The declaration is intended for the institutions, for discussion and as applicable, adoption, there.

However, it is the individual employee and student who must exercise and administer the freedom and responsibility necessary to ensure adequate latitude in the public sphere for truth-seeking debate and exchange of ideas to be able to take place. In order to stimulate a better culture of free speech, the Commission has created a code of «ground rules» for free speech. They are intended to serve as a checklist for everyone who wants to promote a good culture of free speech. See figure 1.2.

We must create the academic freedom of expression we want – for ourselves, for our colleagues and for society. Every single day.

The expectations concerning the role of academia in enlightenment and contributions to the public seeking of truth are enshrined in Article 100 (6) of the Norwegian Constitution. They are explicitly stated in section 1-1 (c) and section 1-3 (c) of the Norwegian Universities and University Colleges Act. The Commission expects universities and university colleges to emphasise clearly in their strategies that academic freedom of expression, academic dissemination aimed at the general public, and active participation in the public discourse are a natural and central part of the university's mission. The same also applies to other research institutions that conduct academic activities. The institutions can stimulate this in

Declaration on academic freedom of expression

Academic freedom of expression is rooted in our need to seek truth and knowledge. As a society, we depend on continuously seeking new understanding, which also entails challenging established truths. Free research and open discussion and criticism are prerequisites for scientific advances – and for them to be exploited for the common good. This freedom goes hand in hand with a responsibility to be objective and adhere to the ethical norms and professional standards of the various academic disciplines. Nevertheless, there is always a freedom to challenge these same standards.

As full members of an academic community, students also have academic freedom of expression. However, full membership does not mean they are fully fledged academics: Students must therefore have both the opportunity and a responsibility to receive instruction in scientific argumentation and thinking.

As independent stewards of academic freedom and academic freedom of expression, academic institutions are crucial for diversity and division of power in society. Academic freedom obliges academia to create the broadest possible arena for use of academic freedom of expression. Managers and other leaders in academia must assume responsibility for supporting, promoting and protecting academic staff and students in the active use of their academic freedom of expression.

Free speech is the lifeblood of academia. The institutions must therefore not place restrictions on academic staff and students' freedom to speak, write, listen, challenge and learn. An employee or student who wants to present problems, theories and views must have the opportunity to be heard – and to be confronted with questions, counter-arguments and criticism.

Academic institutions shall promote a culture of free speech characterised by mutual acceptance and respect for disagreement, thereby contributing to a civilised discussion. They have a duty to safeguard employees and students who are subjected to unlawful expressions. However, it is not up to the institutions to protect staff and students from lawful expressions that many people disagree with or find offensive. Freedom of expression also protects embarrassing, unacceptable, immoral, unpleasant, shocking and offensive expressions. The institutions can regulate the time, place and format of activities in a way that promotes orderly discussion, but this must not restrict free and open debate. It is up to the academic staff and students, not the institutions, to applaud and commend expressions or dispute them using counter-arguments. Academic discussion requires that people's expressions are not met with silence. It requires recognition that views with which one deeply disagrees also have a place in the public sphere.

It is a central task for academic institutions to nurture academics' ability and readiness to engage in good debate and to protect their freedom to engage in discourse if someone tries to restrict it. Academic freedom and academic freedom of expression require an open culture of debate, and the institutions should therefore defend and promote debate on controversial topics. Both staff and students must engage in free discussion of controversial academic issues and be given training in critical assessment of different views, including their own.

Disciplines, faculties or institutes characterised by conformity or limited diversity of opinion are particularly encouraged to open up to and explore contrary views and approaches from outside their field.

Figure 1.1

various ways, for example by establishing reward systems for dissemination activities and by attaching greater importance to dissemination in connection with recruitment and promotions. The institutions should integrate dissemination into

their compulsory researcher training at the PhD level and set requirements regarding dissemination aimed at the general public as part of doctoral degrees.

Ground rules for free speech

These ground rules for free speech can constitute a useful framework for academic freedom of expression. They are intended to serve as a checklist for everyone who wants to promote a good culture of free speech.

1. Use your freedom of expression and freedom of information, also outside academic circles.
2. Be brave, objective, honest and accurate with facts.
3. Seek the truth, support disseminators, and welcome opposing views.
4. Be an open-minded reader and listener, and a reasonable and generous colleague.
5. Interpret opponents' arguments in the best possible way – for them.
6. Attack the ball, not the player. Use arguments, not personal attacks.
7. Be friendly, even if you disagree.
8. Mistakes can be important. Acknowledge them – your own and others'.
9. Know when to turn back. There is no shame in changing your mind – indeed, it is an academic virtue.
10. Conduct yourself with consideration – you are an ambassador for academia.

Figure 1.2

One prerequisite for good academic freedom of expression is astute leadership. This kind of leadership starts in harmonious times, and a good organisational culture that promotes collaboration and free speech is the most important instrument. This kind of culture cannot be created by the management alone, but the management can define important premises for it. It takes time, energy, expertise and constant maintenance. The Commission has identified several ways in which astute leadership at the institutions can contribute to a better culture of free speech. Managers and other leaders must have a basic understanding of freedom of expression. They should encourage and stimulate dissemination activities, they must receive training in how to deal with academic disagreements and criticism, they must have good routines to prepare both themselves and their academic and administrative staff for media storms, and they must ensure and communicate clearly that «unpopular» views will not be met with sanctions.

To build a culture of astute leadership, institutions should have systematic management development and training as a continuous activity. Management development programmes should include training in the necessary knowledge components, such as an introduction to the relevant legislation and regulations, labour market schemes, occupational health and safety, etc., as well as a relational cultural component. There should be separate modules on freedom of expres-

sion in general, and academic freedom of expression in particular, with a focus on ensuring understanding of the underlying grounds on which these freedoms rest. The Commission recommends that groups be established for people with management tasks on the same level, where over time they can build up trust, help each other, prevent conflicts and assist each other in finding good solutions where tensions arise linked to academic freedom of expression. It must be discussed how leadership can stimulate academic freedom of expression. One example of a good tool is continuous or repeated dilemma training with examples, ideally based on real-life cases and experiences.

It is not only managers and other leaders who need training in academic freedom of expression; staff and students also need this kind of training. The Commission proposes codification of the institutions' responsibility to ensure that staff and students receive the necessary training.

The media landscape is constantly evolving. The Commission recommends that employees and students be offered media training – in respect of both edited channels and the various online media. This training must ensure an understanding of how and why edited media and online platforms work as they do, genre understanding – such as the difference between a feature article for publication in a newspaper and an interview, and training on how to prepare for, and deal with,

media storms of varying natures individually and collegially.

A good culture of free speech must be built from the bottom up, but the Commission finds that, from a societal perspective, it is important to highlight the importance of dissemination and academic freedom of expression through democratic enshrinement in the law. The legislation that secures academic freedom of expression must be as precise as possible and must clarify both the institutional and the individual responsibilities for safeguarding and promoting this freedom.

The Commission is therefore proposing some amendments to section 1-5 of the Universities and University Colleges Act (see box 1.1). The proposals have four main objectives:

- to clarify the institutional responsibility for the staff and students' academic freedom
- to specify that the institutional responsibility entails ensuring training in and the prerequisites for staff and students to be able to exercise academic freedom, including academic freedom of expression
- to clarify that the academic freedom from external instructions and control also applies to the dissemination part of the academic tasks
- to promote the individual right, and responsibility, to conduct academic dissemination.

The reasoning behind the proposed amendments to the Universities and University Colleges Act is discussed in section 7.2.2. Some organisations that have submitted consultative statements have argued that other Acts of law should also be amended. The Commission explains why it is not proposing any other legislative amendments in section 7.2.3.

The Commission is aware that new development agreements are going to be drawn up in 2022 for all 21 public universities and university colleges. In section 7.3.1, it is proposed that the development agreements contain goals related to dissemination. These kinds of goals could be qualitative or quantitative and may vary among the institutions. Since the private university colleges, the Norwegian Police University College and the Norwegian Defence University College do not have development agreements, the Commission recommends that greater importance be attached to dissemination activities in the letters of grant commitment and letters of allocation to these institutions.

The current funding system for universities and university colleges does not include any

reward for dissemination activities. In view of the fact that all the other academic work tasks are included in the funding system, the Commission finds that the importance of dissemination activities is under-communicated. Research and teaching are counted, measured and rewarded, and the same must also apply to dissemination. The Commission therefore proposes the introduction of a dissemination indicator in the funding system. If changes are made to the general funding system, for example through the removal of research indicators, the question of an indicator for dissemination must be considered in light of this.

The current reporting system for dissemination activities is extremely complicated, which is probably a contributing factor to the lack of registration. The Commission proposes that the reporting system for dissemination activities be vastly simplified and concentrate on the main forms of academic dissemination. This proposal is independent of whether or not a dissemination indicator is introduced in the funding system.

Pursuant to Article 100 (6) of the Norwegian Constitution, the state has a duty to create conditions that facilitate open and enlightened public discourse. It is important for society and academia to communicate basic knowledge to the population, and to make people realise that this knowledge is the result of research conducted over a long period of time and investments in the knowledge society. The dissemination of knowledge must primarily take place in the language that is the common language in Norway. Universities and university colleges therefore play an important role in ensuring the maintenance and development of well-functioning Norwegian academic and technical language and providing training and follow-up to academics who do not have Norwegian as their first language. Measures to ensure the maintenance and development of well-functioning Norwegian academic and technical language in academia are presented in section 7.4.6.

Norwegian academia must navigate an international landscape that can at times be challenging. In section 7.5, the Commission provides advice on how the authorities can support Norway's work on academic freedom of expression internationally. Among other things, we propose support for the Students at Risk and Scholars at Risk schemes, support for the UN and EU's work on academic freedom of expression, stronger expectations regarding academic freedom of expression vis-à-vis countries that receive funding through the European Economic Area (EEA) and Norway Grants schemes, and that academic free-

dom of expression be included in the work of the Nordic Council of Ministers. The Commission recommends that the Ministry of Foreign Affairs collaborate with the sector on their application of the export control regulations in connection with knowledge partnerships, and that decisions on this be lifted to the government level.

This report does not by any means constitute a conclusion of the work to achieve better academic freedom of expression. But we do hope it can help strengthen and advance the work that is already

being done. Efforts to safeguard academic freedom of expression must be continuous and require input from all actors within and adjacent to academia. In view of their academic freedom, it is essentially only academics themselves who can resolve the challenges facing academic freedom of expression. The climate of free speech can never be better than each individual strives to make it. Like knowledge, a good academic culture of free speech must be built from the bottom up, every single day.

Box 1.1 Proposed amendments to Section 1-5 of the Universities and University Colleges Act

(proposed changes in italics)

Section 1-5 *Academic freedom and responsibility*

(1) Universities and university colleges must promote and safeguard academic freedom, *and those who exercise it*. The institutions are responsible for ensuring that teaching, research and academic and artistic development work maintain a high professional level and are conducted in accordance with recognised scientific, artistic, educational and ethical principles.

(2) In other respects, universities and university colleges are entitled to establish their own academic and value basis within the framework laid down in or pursuant to law.

(3) *Universities and university colleges must ensure that staff and students receive adequate training in and have the prerequisites for the exercise of academic freedom, including academic freedom of expression.*

(4) Universities or university colleges may not be instructed regarding

- a) the academic content of their teaching
- b) the content of research or artistic or academic development work
- c) *the content of dissemination*
- d) individual appointments.

(5) Each person teaching at institutions subject to this Act has an independent academic

responsibility for the contents and plan for the teaching within the framework that is determined by the institution or that follows from statutes or regulations pursuant to statutes.

(6) A person appointed to a position where research or academic or artistic development work is part of the duties, is entitled to choose the topic and method for his/her research or development work within the framework that follows from the employment contract or a special agreement.

(7) A person covered by the fifth or sixth paragraph has the right and an academic responsibility to conduct dissemination.

(8) Universities and university colleges must ensure transparency regarding the results of research or academic or artistic development work. Anyone appointed to a position as mentioned in the fifth paragraph is entitled to publish their results and must make sure such publication takes place. The relevant research basis must be made available in line with good practice in the field. The board may consent to postponed publication when required for legitimate reasons. No permanent restrictions in the right to publish results can be agreed or stipulated beyond what follows from statute or pursuant to statute.

Chapter 2

Mandate, composition, form of work

2.1 Mandate and appointment

The Ministry of Education and Research's letter of appointment for the expert group dated 20 July 2021:

Appointment of members to an expert group on academic freedom of expression

The Ministry of Education and Research has today appointed an expert group to investigate issues relating to academic freedom of expression. Thank you for agreeing to take part in this work.

The expert group's proposals will provide the basis for the Ministry's work on a new long-term plan for research and higher education (2023–2032), which will be presented to the Storting (Norwegian parliament) in autumn 2022. The expert group's proposal will also form the basis for the work on a new draft Act relating to universities and university colleges, which the Ministry aims to present in spring 2023.

The expert group has the following composition:

- Anine Kierulf (chair), Associate Professor, University of Oslo and special adviser to the Norwegian National Human Rights Institution
- Gunnar Bovim, Advisor, Norwegian University of Science and Technology
- Saira Basit, Vice Dean, Norwegian Defence University College
- Sofie Høgestøl, Associate Professor, University of Oslo
- Magnus Dybdahl, Academic and Research Policy Officer, the National Union of Students in Norway (NSO)
- Vidar Helgesen, Executive Director, the Nobel Foundation, Stockholm

Background

Academic freedom entails, among other things, that the individual employee must be

free to themselves choose the topic and method for their research, and that they have an independent academic responsibility for the organisation and content of their teaching. Institutions must use their academic freedom to create conditions that facilitate these kinds of choices. There are a number of developments in society that give cause for concern. The public debate is becoming increasingly polarised. Academic freedom, independence, and quality assurance are becoming increasingly important to maintain a high level of trust in research-based knowledge in society. The individual researcher's academic freedom is a fundamental premise for the independence and legitimacy of research. It is a problem if employees are so affected by threats, intimidation, etc. that they do not want or dare to do research on or teach certain issues or topics. In the worst case, this may also affect the choice of method or content of the learning and hamper free research. Universities and university colleges must promote and safeguard academic freedom (cf. section 1-5 (1) of the Norwegian Universities and University Colleges Act). This means that the institutions have a statutory responsibility to stand behind and support employees if they experience threats, harassment, intimidation, etc. Universities and university colleges also have responsibilities towards their employees by virtue of their capacity as an employer (cf. the Working Environment Act).

In the legislative bill Proposition no. 111 to the Storting (2020–2021), section 2.2.1, the Ministry adopted the Universities and University Colleges Act Commission's proposal to continue the content of the current section 1-5 on academic freedom and responsibility (see Official Norwegian Report (NOU) 2020:3, chapter 15). At the same time, the Ministry noted that the policy and systems needed upgrading to meet the new era, with new media, new technologies and new challenges.

The Ministry therefore announced that, in connection with the work on a new long-term plan for research and higher education (2023–2032), the Ministry would, among other things, appoint an expert group that will be tasked with investigating certain aspects of academic freedom and responsibilities.

Mandate

The expert group shall assess whether, and if so how, the Universities and University Colleges Act should be amended to clarify the employees' academic freedom of expression, and the institutions' responsibility for and opportunities to safeguard and support this. The expert group should also consider whether there is a need for further regulation of the relationship between freedom of expression, academic freedom and the responsibilities of employees and employers pursuant to, for example, the Working Environment Act.

In addition, the expert group must also describe possible threats to academic freedom, partly in light of international developments. The expert group shall provide a basis for discussing the prerequisites for the exercise of academic freedom in academia and academia's contribution to the public debate. The expert group should therefore have an open approach, obtain views from relevant stakeholders, and encourage debate. The expert group should also draw on synergies released by comparing existing sources of knowledge, which the Ministry of Education and Research will obtain as part of its work on the long-term plan for research and higher education. The expert group must present its proposals by 1 March 2022.

2.2 Working method and input

2.2.1 The Commission's work

The Commission held its first meeting on 3 September 2021, and has met a total of nine times. Most of the meetings were held in person in Oslo, but some were held via videoconference due to the COVID-19 pandemic. The last meeting was held via videoconference on 7 March 2022.

The Commission's working method has been adapted to the very short time limit it has been given. The reason for the short time limit is that the Commission's report is to form the basis for two processes in the Ministry of Education and

Research: a proposal for a new Universities and University Colleges Act is scheduled to be presented in 2023, and a new long-term plan for higher education and research is to be presented along with the national budget in autumn 2022.

The Commission's chair and members have participated in a number of different debates and discussions with stakeholders by special invitation, including the Stockmann dagene conference in Trondheim on 30 September 2021 and Universities Norway's conference on 7 December 2021.

The Commission, represented by the chair and secretariat, has had meetings with the Freedom of Expression Commission (chair and secretariat) and with several resource persons in the Ministry of Education and Research and underlying agencies.

2.2.2 Input

In the letter of appointment, the Commission has been asked to have an open approach, obtain views from relevant stakeholders, and encourage debate. Due to the short time limit, we have not been able to arrange any major events ourselves, but we have gathered consultative input from targeted organisations and institutions, from individuals, and from contacts abroad. In the absence of open meetings, the Commission has called for input from all interested parties.

Input by open invitation

The Commission issued an open call for consultative statements on the government's website regjeringen.no. The invitation was reiterated in a post by the group's leader in the online newspaper for higher education and research *Khrono*.¹ By February 2022, the Commission had received around 50 consultative statements. The Commission is not an investigative committee and has not undertaken concrete assessments of the individual consultative statements. However, we have used the information provided in many of them as the starting point for our assessments.

Written consultative statements from organisations invited to comment

The Commission has asked various organisations for their views and comments on the subject of the

¹ Article posted in the online newspaper for higher education and research *Khrono.no* on 5 October 2021 <https://khrono.no/kierulf-vil-du-hjelpe-oss/617576>

inquiry, including the Norwegian Association of Researchers (FF), the Young Academy of Norway (AYF), the Norwegian National Research Ethics Committees (FEK) and the Language Council of Norway.

Furthermore, a selection of universities and university colleges have been asked to comment and provide input: University of Oslo, University of Bergen, Norwegian University of Science and Technology, OsloMet – Oslo Metropolitan University, University of Stavanger, Kristiania University College, and the Norwegian Police University College. The research institutes Cicero and Sintef were also asked to comment and provide input.

In addition, Oslo School of Architecture and Design, the Norwegian Academy of Music, Oslo National Academy of the Arts, the University of Bergen, the University of Tromsø – the Arctic University of Norway, the Norwegian University of Science and Technology and the Inland Norway University of Applied Sciences (the Norwegian Film School) were asked to comment and provide input on academic freedom of expression within the arts in particular.

The Commission has also obtained information on academic freedom of expression in a number of countries from the education and research councils at the Norwegian embassies in Brussels, Paris, Washington and New Delhi. In addition to raising questions about the regulation of academic freedom of expression and the responsibility of institutions to support and protect it, the Commission also asked about ongoing debates, possible threats and challenges to academic freedom, the prerequisites for exercising academic freedom, how academia can contribute to public debate, and the relationship between freedom of expression, academic freedom of expression and academic freedom.

Invited speakers

The Commission invited certain individuals from Norway and abroad to provide an opening presentation at meetings. The following people were invited (with country of residence in brackets for people who do not reside in Norway):

- Professor Tor Grande, Pro-Rector, Norwegian University of Science and Technology
- Professor Elisabeth Staksrud, University of Oslo, then Chair of the National Committee for Research Ethics in the Social Sciences and the Humanities (NESH)

- Professor Guro Lind, Oslo University Hospital, Chair of the Norwegian Association of Researchers
- Professor Kenneth Ruud, formerly Pro-Rector of the University of Tromsø – the Arctic University of Norway, now Director General of the Norwegian Defence Research Establishment
- Professor emeritus Jan Fridtjof Bernt, University of Bergen
- Vidar Strømme, lawyer, Director General of the Norwegian National Human Rights Institution
- Professor Morten Holmboe, Norwegian Police University College
- Professor Emeritus Heine Andersen, University of Copenhagen (Denmark)
- Professor Keith E. Whittington, Princeton University (USA)
- Professor Emeritus Hank Reichman, California State University (USA)
- Professor Emerita Joan W. Scott, Institute for Advanced Study (USA)
- Dr Pam Fredman, formerly Rector of the University of Gothenburg, now President of the International Association of Universities (Sweden)
- Associate Professor Bente Kalsnes, Kristiania University College
- Norunn Sæther Myklebust, CEO of the Norwegian Institute for Nature Research
- Researcher Mari Skuggedal Myksvoll, Norwegian Institute of Marine Research and a member of the Young Academy of Norway
- Elisabeth Björk, Vice President of AstraZeneca AB (Sweden)
- Researcher I Kjersti Thorbjørnsrud, Institute for Social Research
- Tove Lie, Chief Editor of the online newspaper for higher education and research Khrono
- Eva Grinde, commentator in the newspaper Dagens Næringsliv
- Major General Henning-A. Frantzen, then Rector of the Norwegian Defence University College
- Hector Ulloa, President of the Norwegian Students' and Academics' International Assistance Fund
- Matteo Vespa, member of the board of the European Students' Union and representative on the Bologna Process Working Group on Fundamental Values and the Scholars at Risk European Coordinating Committee (Italy)
- Professor Ole Petter Ottersen, Rector of the Karolinska Institute (Sweden)
- The Norwegian Police Security Service

- Lieutenant Colonel and Professor Tormod Heier, Norwegian Defence University College
- Researcher II Ingvild Reymert, Institute for Social Research and the Nordic Institute for Studies in Innovation, Research and Education
- Irene Sandli, Director of Human Resources, University of Oslo

2.2.3 Knowledge base

Reports from OsloMet

In September 2021, the Centre for the Study of Professions at OsloMet – Oslo Metropolitan University, was commissioned by the Ministry of Education and Research to conduct an analysis of academic freedom and confidence in research-based knowledge in Norway. The assignment consisted of two main components: a knowledge-based analysis of the conditions necessary for and potential threats to academic freedom of expression; and an analysis of the most important prerequisites for ensuring high confidence in research-based knowledge in Norway and the factors and developments that can undermine confidence in this knowledge.

The first sub-report, *Et yringsklima under press? Akademisk frihet og yringsfrihet i en brytningstid [Is freedom of expression at risk? Academic freedom and freedom of expression in a period of upheaval]*,² was published in December 2021 and was used as part of the knowledge base for the Commission's work.

This sub-report discusses issues related to academic freedom in Norway in a broad international context, particularly in comparison with our Nordic neighbours. It discusses, among other things, possible threats to academic freedom in Norway in light of changes in the governance structure for universities and university colleges, traditions in the relationship between academia and the general public, and international developments in new platforms of communication. The report identifies areas where academic freedom is or may come under pressure.

The report looks at the infrastructure for academic freedom and how the three key dimensions of latitude (defined by external constraints), integrity, and ability (defined by internal limitations) relate to the relationship between the individual

researcher, the institutions and society. Below are some of the main findings of this report.

Researchers are an important source of information for the Norwegian media and also conduct popular scientific dissemination through other channels. In general, researchers seem to have become better disseminators in recent years. Norwegian researchers' latitude to express their ideas and opinions does not currently appear to be directly limited by an aggressive and increasingly polarised climate of expression in the public sphere to any significant degree.

Nevertheless, there is much to suggest that, in reality, fear of the tabloidisation of the media and an unpleasant climate of debate, especially on social media, is limiting researchers' dissemination activities. Researchers are less eager to communicate controversial findings in the media, as opposed to in scholarly publications. Several researchers in fields such as climate change, gender studies, and immigration, integration and multiculturalism report that they try to avoid communicating publicly on incendiary topics in order to avoid unpleasant reactions. It is difficult to measure the extent of subtle forms of self-censorship, withdrawal and chilling effects. It is also difficult to gauge whether researchers adapt their statements to the climate of opinion within their own academic environment, since such adaptation is often unconscious and the result of internalised norms, as opposed to direct, external pressure to conform. The report concludes that clearer support from managers and a stronger collegial community would help make more researchers feel more confident in their dissemination responsibilities.

The conditions in Norway may well be better suited to avoiding an unchecked polarisation between populist forces and «academic elites» than they are in the USA and many countries in Europe. Norway has relatively weak academic elites, who are generally well integrated into society. Countercultures, new political movements and traditionally underprivileged social classes have been accepted into academia and fostered their own «organic intellectuals» – an academic role model that has been strongly embraced in Norway. By contrast, Norway has a relatively consensual political culture, which – combined with small communities, close networks between different institutional spheres, and a strong concentration of elites in the capital – can nurture suspicions, well-founded or otherwise, that researchers, bureaucrats and other «experts» are united in

² The report *Et yringsklima under press? [A climate of expression under pressure?]*, published on the Norwegian government's website Regjeringen.no on 21 December 2021: <https://www.regjeringen.no/no/dokumenter/et-ytringsklima-under-press/id2893147/>

an ideological clique that serves to conform research.

It is difficult to gain a reliable, research-based overview of the prevalence of identity politics and cancel culture in academic institutions. Little research has been done on the topic. Most of the accusations of this in Norway have come from the academic community itself. It would appear that Norwegian universities and university colleges have consistently shown relatively strong resistance to the polarising dynamics of identity politics within the institutions.

The report points out that the combined management pressure on research and higher education from the public authorities, research councils, management of the institutions and other players linked to research that control strategic resources can result in considerable pressure to conform. Academic staff may feel that their freedom of expression is restricted when they perceive that they must constantly think carefully about how their statements might affect collaborative relationships and access to strategic research resources. At the same time, the current trend for educational and research institutions to define themselves using semi-political slogans and «core values» may limit researchers' freedom to assess or challenge these values. This kind of conformity can reflect conscious opportunism or more subconscious processes. Either way, it can result in a politicisation that undermines the public's confidence in research.

The report goes on to discuss whether these kinds of conformity-inducing mechanisms can impair researchers' ability to make use of their freedom of expression. In the conclusion, the following questions are raised: (1) Have the ongoing changes within the academic institutions, in their surroundings in the outside world and in the patterns of interaction between research and society weakened the «culture of independence» in academia in favour of a mounting «culture of conformity»? (2) Are young people increasingly being socialised into a culture of conformity before becoming students and possibly embarking on an academic career? (3) Can the sum total of a number of changes in research, organised research training, recruitment, publication patterns, organisational forms and research funding lay the groundwork for a socialisation (and selection) of young researchers where career orientation, strategic adaptation and conformity are increasingly being encouraged and rewarded, while independence and uncompromising intellectual honesty are on the wane? The report states that it does not

have a robust enough knowledge base to provide definitive answers, but argues that the questions merit attention in the form of both further research and debate.

The second sub-report, *Integrasjon og integritet: Tillit til forskning i et kunnskapssamfunn [Integration and integrity: Confidence in research in a knowledge society]*,³ was only published in March 2022 and has therefore not been part of the Commission's knowledge base for this report.

The Institute for Social Research's monitoring project in collaboration with the Fritt Ord Foundation on the status of freedom of expression in Norway

In 2021, the Institute for Social Research (ISF) published a report with the support of the Fritt Ord Foundation: *Forskere og offentligheten – om ytringsfrihet i akademia [Researchers and the public – on freedom of speech in academia]*.⁴ The report looks at how, when compared with the population in general, researchers assess their right to express their views publicly, how they perceive the opinion climate and arena of expression in general, their specific experience with public participation and dissemination of research results in the media, and whether they have experienced unpleasant comments or threats as a result of their media participation. The Institute for Social Research (ISF) looked in particular at experiences and dissemination practices among researchers in climate research, gender and equality research, and research related to immigration and integration.

The Institute for Social Research summarises the main findings as follows:

Both researchers and the general public believe that researchers ought to be able to express themselves freely about academic issues. The population is more critical of researchers voicing their opinions on political issues. Almost half of the researchers hold that participation in public debate can improve the quality of their research, at the same time as many express caution. Most of the researchers that took part in the

³ The report *Integrasjon og integritet – Tillit til forskning i et kunnskapssamfunn [Integration and integrity: Confidence in research in a knowledge society]*, published on the Norwegian government's website Regjeringen.no on 8 March 2022. <https://www.regjeringen.no/no/aktuelt/ny-rapport-om-tillit-til-forskningsbasert-kunnskap/id2903463/>

⁴ Mangset, M., Midtbøen, A.H. Thorbjørnrud, K., Wollebæk, D., Fladmoe, A. (2021). *Forskere og offentligheten – om ytringsfrihet i akademia [Researchers and the public sphere – on freedom of expression in academia]*. Institute for Social Research (ISF) <https://hdl.handle.net/11250/2759833>

study have published their findings in academic forums during the past year, and almost half have communicated research findings to the general public via news media and social media. Researchers are generally less likely to communicate controversial findings in the media than in specialised academic forums. They are least willing to communicate findings that may be perceived as offensive in news media and on social media. Complexity and «tabloidisation» are cited as the main reasons why researchers refrain from communicating their research to the public. Controversial findings and fear of unpleasant reactions are particularly significant in some disciplines and research fields. Researchers in the fields of immigration, gender and climate change are more likely to limit themselves than researchers in other fields. Researchers in the fields of immigration, gender and climate change experience unpleasant comments and threats more frequently than researchers in other fields. Most of the unpleasant comments are from other researchers and colleagues. Unpleasant comments can result in increased engagement, but can also trigger anger, insecurity and withdrawal.

The Institute for Social Research's report *Ytringsfrihet i akademien* [*Freedom of expression in academia*]⁵ by Vidar Strømme is also part of the Fritt Ord Foundation's monitoring project on the status of freedom of expression (ISF report 2020:14). The report aims to further clarify the legal aspects of academic freedom of expression. It also identifies trends, uncertainties and possible weaknesses in some of the rules that are currently practised. Freedom of expression is intended to contribute to the pursuit of truth, the freedom of the individual and democracy, and is under constant pressure. Strømme shows that freedom of expression in academia is strong – both as a principle and legally.

Freedom of expression in a new public sphere. The boundaries of debate and the arena for knowledge

A new book with the title *Ytringsfrihet i en ny offentlighet. Grensene for debatt og rommet for kunnskap* [*Freedom of expression in a new public sphere. The boundaries of debate and the arena for knowledge*]⁶ by Marte Mangset, Arnfinn H. Midtbøen and Kjersti Thorbjørnsrud (eds.) deals with

freedom of expression in academia. The authors consider freedom of expression and freedom of information in context and regard academia as a specific field for knowledge production. They also investigate researchers' perceptions of the conditions for the seeking of truth, dissemination of knowledge and diversity of perspectives. Access to relevant knowledge, breadth of knowledge types and counter-expertise are closely related to researchers' freedom of expression. How spacious and diverse this arena and freedom of expression in academia are perceived to be from the inside depends on a number of norms and mechanisms other than the law alone. The authors investigate whether the institutional framework for knowledge production and dissemination enables researchers to fulfil their civic mission of supplying knowledge to the public debate, and whether a homogeneous political orientation among scholars or whether government-directed research policy can pose challenges for the diversity of knowledge in the Norwegian public sphere. Internally within academia, different academic approaches may also limit the diversity of perspectives in knowledge production and dissemination, if certain topics or perspectives are avoided because researchers do not want the burden of working on them or funding priorities prevent them from being pursued. The book maps the barriers to dissemination from the researchers' point of view, looks at the discussions about which researcher roles are legitimate, and where researchers draw the line between research and politics.

Studies on dissemination activities and the priority afforded to dissemination at universities and university colleges

There are relatively few studies on dissemination activities at universities and university colleges. In her PhD thesis «Controlling the Future of Academia: Academic and Managerial Logics in Professional Recruitment», Ingvild Reymert, a researcher at the Institute for Social Research (ISF) and the Nordic Institute for Studies in Innovation, Research and Education (NIFU), has analysed academic hiring processes and the use of bibliometric indicators, and which factors are

⁵ Strømme, Vidar (2020). *Ytringsfrihet i akademien* [*Freedom of expression in academia*]. Institute for Social Research (ISF) Report 2020:14 <https://hdl.handle.net/11250/2719456>

⁶ Mangset, M., Midtbøen, A.H. & Thorbjørnsrud, K. (eds.) (2022). *Ytringsfrihet i en ny offentlighet. Grensene for debatt og rommet for kunnskap* [*Freedom of expression in a new public sphere. The boundaries of debate and the arena for knowledge*]. Oslo: Universitetsforlaget. <https://doi.org/10.18261/9788215051017-2022>

afforded importance in connection with recruitment to academic positions. Reymert did not have a main focus on dissemination in this work, but in her doctoral material she found that less importance is attached to dissemination activities, with greater importance attached in interviews than in expert assessments. There are major differences between different disciplines; everyone does some dissemination work, although they never have much time for this; and there are minor differences in the level of dissemination activities between researchers born in Norway and foreign

researchers. By contrast, the Nordic Institute for Studies in Innovation, Research and Education's *Time Use Survey*⁷ indicates that foreign researchers spend more time on dissemination than Norwegian researchers.

⁷ Time Use Survey 2021 *Lengre arbeidsuker, mindre tid til forskning og utviklingsarbeid* [Longer working weeks, less time for research and development work] Nordic Institute for Studies in Innovation, Research and Education (NIFU) <https://www.nifu.no/news/lengre-arbeidsuker-mindre-tid-til-fou/>

Chapter 3

Academic freedom of expression – interpretation, delimitation and grounds

3.1 What is academic freedom of expression?

3.1.1 Introduction

The Commission has been tasked with «investigating issues relating to academic freedom of expression».¹ But what exactly is academic freedom of expression, and how does it relate to academic freedom and freedom of expression, respectively?

In this section, we clarify how the Commission views these three phenomena and they relate to one another. We have not set out to provide a definition of the term «academic freedom of expression». Instead, we have used a functional approach, delimiting this freedom for our purposes via an interpretation of the assignment given to us and how best to resolve it.

The introduction to the mandate and the description of the background for the appointment of the Commission both focus on the challenges in respect of academic freedom of expression due to *tendencies in the public debate*. Developments here are highlighted as the main source of concern about whether academic employees actually feel that they are genuinely free to choose the topic and methods for their research and the organisation and content of their teaching. Genuine academic freedom is highlighted as a prerequisite for maintaining a high level of trust in research-based knowledge in society, as we will return to in section 3.2. In other words, the mandate does not highlight the legal scope for freedom of expression as the problem, but rather the social developments that influence academics' arenas of expression in practice.

Interpretation and clarification

The appointment of the commission members, the background for the study and the mandate itself all focus on academic freedom of expression. The mandate also refers to «academic freedom». Academic freedom comprises both an institutional aspect and an individual aspect. We understand the link between these two concepts in the mandate to mean that we are primarily to consider the individual aspect of academic freedom. The aim is «to clarify the academic freedom of expression of the employees», not of the institutions.

The core of our work is to examine academic freedom of expression for academic staff in the higher education sector. However, the assessments and recommendations we make also apply to other research sectors, such as health trusts and research institutes, insofar as they are appropriate.

The Commission has focused its work on two basic questions. First, how does academic freedom of expression relate to both freedom of expression and academic freedom; and second, which parts of the academic mission is academic freedom of expression particularly relevant to.

3.1.2 What is academic freedom of expression relative to academic freedom and freedom of expression?

Rather than attempting to define academic freedom of expression, the Commission has regarded academic freedom of expression as a functional aspect of both the general freedom of expression and the individual academic freedom. We will therefore provide a brief description of freedom of expression and academic freedom, before explaining how we understand academic freedom of expression for the purposes of the Commission's work:

¹ Letter of appointment from the Ministry of Education and Research dated 20 July 2021, see section 2.1.

Freedom of expression

All citizens have *freedom of expression* – including academics. This means that everyone has the freedom to express ideas and opinions on any matter they want, and to hear other people's opinions.²

In other words, freedom of expression protects not only our right to say what we want to others, but also our right to be informed about what others have to say. The latter is sometimes also called freedom of information. Both are protected at the same legal level.

In terms of legal level, freedom of expression in Norway is protected in the Constitution and in human rights conventions.³ This means that freedom of expression – including that of academics – can only be subject to legal restrictions that have been adopted in the form of legislation and that are necessary and proportionate in relation to the grounds for freedom of expression.

The reasons why freedom of expression enjoys such strong legal protection are threefold: Freedom of expression is defining for each individual's autonomy and freedom to form opinions, and it is a prerequisite for our pursuit of truth and for a genuine, functioning democracy.

There are a number of statutory exceptions to freedom of expression, such as the prohibitions against threats, calls to violence, hate speech against minorities, defamation, violation of the right to a private life and harassment. Within these limits, freedom of expression protects all expressions, in all forms, without regard to their quality.

The limits on freedom of expression can only be enforced after an expression has been made. There are two reasons why pre-censorship is prohibited. First, it is impossible to know what has been said until it has been said. Second, it is only then that other citizens can find out that the idea expressed exists, so that they can then applaud it and cheer it on or mobilise themselves against it.

Freedom of expression is not protected simply because we believe that as long as we have it, there will be a search for truth, democracy and free formation of opinions. Very many expressions definitely do not contribute to any of these goals. Errors, lies and manipulation abound, and many people are completely uncritical about what

they hear and read. But without freedom of expression, it is difficult to imagine how these underlying goals can be realised. For what all-seeing authority can, in real time, know what it is necessary, apt or important to say at all times? The public sphere is a mosaic of expressions. It is impossible for anyone to decide, in the moment, which of the individual pieces will be crucial to create the whole picture for each of us. What moved us toward – or away from, an idea?

Supposedly constructive statements can be completely counterproductive – for example, scientific rebuttals of disinformation or conspiracy theories may end up reinforcing misconceptions rather than countering them.⁴ Similarly, obviously destructive expressions can have the opposite effect of what we might expect. Many people were shocked in 2021 when the Norwegian television channel TV2 showed a member of the group Stop Islamisation of Norway (SIAN) verbally attacking the reporter Kadafi Zaman and asking what Pakistanis were doing in Norway, and in high positions. Zaman responded with a video on Instagram listing some of the archetypally «Norwegian» and constructive things he does as a «Pakistani in Norway», which was warmly received and widely shared on social media. This led to a flood of similar posts from other upstanding members of the Norwegian–Pakistani community under the hashtag #HvaPakistanereGjørINorge [what Pakistanis are doing in Norway]: «Teaching Nynorsk to Norwegians of all colours», «Delivering food to the evacuees after the Gjerdrum mudslide. What are you doing, SIAN?» The then Minister of Culture Abid Raja wrote «Running the country responsibly as part of the government.»⁵

Freedom of expression is a necessary but insufficient condition for the pursuit of truth, the promotion of democracy and the individual's freedom to form opinions.

Academic freedom

In essence, *academic freedom* is the freedom to decide what to do research on, how to conduct research, how and where best to communicate information about the research that has been done, and how to teach.⁶

² See, among others, Article 100 of the Norwegian Constitution, Article 19 of the United Nations Universal Declaration of Human Rights (1948), Article 19 of the United Nations Convention on Civil and Political Rights (1966), and Article 10 of the European Human Rights Convention (1950).

³ See section 5.1.1

⁴ See section 3.2

⁵ A. Kierulf, *Hva er yttringsfrihet? [What is freedom of expression?]* p. 51–52

⁶ For more details, see section 2 of the Official Norwegian Report (NOU) 2006: 19 *Akademisk frihet [Academic freedom]*.

Academic freedom comprises two aspects, which are mutually interdependent, but which may also come into conflict with one another: institutional freedom and individual freedom.

The institutional aspect of academic freedom concerns universities and university colleges' autonomy vis-à-vis their owners and sources of funding.

The individual aspect of academic freedom is the latitude academic staff have to choose their research questions, conduct research, and plan their teaching and dissemination activities, at and outside the institutions.

The Global Colloquium of University Presidents has summarised the ideals of individual academic freedom as follows:⁷

Academic freedom may be defined as the freedom to conduct research, teach, speak and publish, subject to the norms and standards of scholarly inquiry, without interference of penalty, wherever the search for truth and understanding may lead.

Academic freedom of expression

The Global Colloquium of University Presidents' formulation draws attention to two things that the Commission believes are important for the interpretation of *academic freedom of expression*, in contrast to academic freedom and freedom of expression

First, it shows that academic freedom of expression is one aspect of individual academic freedom.

Second, academic freedom of expression is qualified in relation to the general freedom of expression that all people have: Expressions are subject to *quality requirements* in respect of both their *content* and their *form*.

A primary characteristic of the general freedom of expression is precisely the absence of quality requirements. As a general starting point, all expressions enjoy the same protection, no matter how shocking, irrelevant, emotional or irrational they may be.

Academic freedom of expression is subject to the norms and standards that apply in the research community. These norms and standards may set constraints regarding the *content* of academic expressions, such as use of an accepted scientific method, representativeness, ethics, rela-

tion to sources, etc. They can also set constraints regarding the *form* in which academic expressions are made, such as their objectiveness, transparency, impartiality and fair representation of opposing arguments, reference to sources, etc.

A key factor here is that quality control of academic expressions shall be carried out by peers within the academic community, using scientific methods and relevant arguments, not by the state through the use of legal sanctions, political decisions or guidelines, nor by the academic institutions.⁸

The quality requirements underline that academic freedom of expression also entails a *responsibility of academic expression*. This responsibility has two aspects. First, academics have a responsibility to adhere to the quality norms that apply in their field and the norms regarding objectivity and impartiality that enable debate. Second, they have a responsibility to ensure that other academics adhere to these norms; for example, through peer review and the advancement of alternative hypotheses, or by challenging ideas or adding nuance through the use of counter-arguments in the public debate. This is not a legal duty, but rather an academic responsibility.

Of the three grounds for the statutory freedom of expression, one in particular constitutes the main grounds for academic freedom of expression: *the pursuit of truth*.

Both of the other two grounds for general freedom of expression may also be important for academic freedom of expression. As an individual citizen, the individual researcher is also in a continuous process of individual learning and development. The individual researcher therefore has the same constitutional protection for their self-interest in imparting and receiving information or ideas on all kinds of issues, academic or otherwise. High-quality research-based knowledge is a crucial element of a viable democracy. The democracy-based defence is therefore also central to academic freedom of expression.

Nevertheless, it is society's collective interest in the pursuit of truth that makes academic freedom of expression unique. It is the goal of seeking truth that allows academic freedom of expression

⁷ Joint Statement from the Global Colloquium of University Presidents (2005)

⁸ According to section 1-5 of the Universities and University Colleges Act, the institutions must promote and safeguard academic freedom. This provision also stipulates that they have an independent responsibility for ensuring quality in academic work. These two statutory duties may come into conflict, and this is discussed in more detail in sections 6.2.2 and 7.2.2. This dilemma arises primarily in connection with research and teaching, and only to a lesser extent in connection with dissemination.

to extend beyond ordinary freedom of expression in certain cases. Academic freedom of expression does not have this special protection out of consideration for the individual academic employee or student, but rather for the sake of our common interest in developing new quality-assured knowledge and uncovering new insights.

3.1.3 What part of the academic mission is academic freedom of expression particularly relevant to?

The academic mission is broad. In terms of the law, the purpose of universities and university colleges is to:

- a. provide higher education at a high international level.
- b. conduct research and academic and artistic development work at a high international level.
- c. disseminate knowledge of the institution's activities and promote an understanding of the principle of academic freedom and application of scientific and artistic methods and results in the teaching of students, in the institution's own general activity as well as in public administration, in cultural life and in business and industry.
- d. contribute to environmentally, socially and economically sustainable development.⁹

Academic freedom of expression is absolutely essential for all these purposes. Nevertheless, we recognise that there are two elements of the academic mission that are particularly important for us to explore.

Academic freedom of expression within academia

The first element applies to points (a) and (b): How does academic freedom of expression affect – and how is it influenced by – the relationship between students and teachers, the relationship among the staff, and not least, the relationship between the staff and the institutions. This section addresses issues related to:

- Influence from politicians, sources of funding and other external parties
- Institutional management and governance
- The institutional responsibility for education and training in academic freedom of expression

⁹ See section 1-1 of the Norwegian Universities and University Colleges Act.

- The institutional responsibility for the working environment
- Culture of free speech at the institutional level
- Culture of free speech at the collegial level, i.e. among academic staff
- Culture of free speech between academic staff and students

This is also discussed in chapters 6 and 7.

Academic freedom of expression in connection with external dissemination

The second element concerns point (c) and academics' opportunities to contribute to spreading and explaining knowledge about their activities outside the institutions and the academic community.

We regard the dissemination mission of academic staff to be of key importance to the Commission's assignment. First, let us provide a brief explanation of how we understand dissemination:¹⁰

Dissemination may be researcher-oriented, teaching-oriented, user-oriented or public-oriented. One consideration behind the dissemination obligation in point (c) is that the knowledge developed, taught and managed by academics and academic institutions must also benefit the rest of society.

The academic mission already benefits society in many ways – not least through research and development of new knowledge, and the education of a large segment of the population.

In addition to this, academia benefits society in a broad sense through its civic mission to promote democracy. This part of the academic mission is fulfilled by academia's ongoing contributions to meet society's constant need for information and high-quality knowledge – our shared freedom of information.

Academic freedom of expression is a prerequisite for this knowledge-spreading aspect of aca-

¹⁰ See also *Sammen om kunnskap II – Operasjonalisering av indikatorer for formidling [Sharing knowledge II – Operationalisation of indicators for dissemination]* (2006) p. 10, which defines dissemination as the transmission of information about academic results, working methods and attitudes by academic staff from a field of research out to the general public and/or users for the purpose of transferring knowledge and insight. In this context, «users» refers to delimited groups that require the knowledge and technology in the practice of their occupation or profession, and institutions, organisations and others that can be equated with these. https://www.regjeringen.no/globalassets/upload/kilde/kd/hdk/2006/0010/ddd/pdfv/288717-sdg-sammen_om_ku.pdf

demia's social mission. It is also essential for Norway to be able to fulfil its duty to «create conditions that facilitate open and enlightened public discourse», which is imposed on the state authorities in Article 100 (6) of the Constitution.

This duty can be fulfilled in several ways. People outside academia can acquire some knowledge through books and journals that make research findings directly available. The public's direct access will vary according to factors such as which texts can be accessed through the libraries, which research is openly available or requires expensive subscriptions, whether both the research and the underlying material are freely available (open access, open source), etc.

Much of academia's knowledge-spreading civic mission takes place indirectly, through research-based knowledge produced by the academic communities being communicated to the outside world by the academic staff or students. Academics can act as «translators» between experts and laypeople.

«Dissemination» can be defined in a number of different ways, and, as previously mentioned, it is necessary for research, teaching and other distribution of academic knowledge. However, since the Universities and University Colleges Act treats dissemination as a separate component of the work assigned to academia and differentiates it from the other tasks that academic employees are required to perform pursuant to the Act, there is a residual category called «dissemination» that is different from «research» and «education». This work is aimed more at the general public.

Dissemination aimed at other researchers through publication in scholarly journals is ensured both by the fact that «research» is partly measured by this form of dissemination, and by the fact that research dissemination is crucial for academics' career opportunities within academia and is thus structurally incentivised.

The same also applies to user-oriented and teaching-oriented dissemination to a certain extent: no dissemination, no teaching. Although dissemination of findings through research-based teaching is ensured and measured in other ways than research, it is very closely related to it. Teaching dissemination is also part of the academic mission that is secured through existing work duties and structures.

In contrast to research and teaching dissemination, the residual category of «dissemination» aimed at the general public is an element of the academic staff's work duties that is not really subject to any structure and incentives, nor is it deci-

sive for their career opportunities within academia.

Academic staff's general dissemination can take place in many public spheres – from the broad and mainstream, via narrower or user-oriented lectures or contributions to innovation projects, to advice and participation in public committees. It can also take many forms. It may be one-way – as the dictionary definition implies, as an intermediary that passes on knowledge. But it may also be multi-way, such as when academics actively participate in discussions with their knowledge. This multi-way dissemination is essential to contribute to the pursuit of truth, enlightenment and the development of new knowledge. It can help ensure more efficient distribution of knowledge from experts to laypeople. But it is also crucial as an arena for experts to gain access to information and knowledge from laypeople. After all, it is only in interaction with broader public audiences that academics can attain insight into how their knowledge and arguments are regarded and perceived outside academia, i.e. how well they work «in the real world».

Sometimes this kind of multi-way dissemination is called *research communication*, to distinguish it from *research dissemination*. Linguistically, this distinction is useful. The Commission has nevertheless decided to use the term «dissemination» to refer to both one-way and multi-way contributions to enlightenment, and the flow of information from experts to laypeople and vice versa. The reason for this is that the concept of «dissemination» is so firmly established as an expression of the society-oriented aspects of the academic mission. The term «dissemination» is also used consistently in the current Universities and University Colleges Act. The Commission believes that any initiative to change the concept of dissemination in the sector should be considered in connection with follow-up of proposals for a revision of the entire Universities and University Colleges Act.

In order to distinguish academic freedom of expression from the general freedom of expression that everyone has, the Commission has found it useful to divide the dissemination of research results to the general public, where academic freedom of expression is central, into three main forms:

1. academic and empirical information and/or advice on, and discussion of,
 1. research and teaching questions,
 2. academic findings and results and insight into ongoing projects, and

3. institutional questions pertaining to the framework for research and teaching
2. more general information, advice or debate on academic issues of a subject-specific or institutional nature that do not arise directly from what the individual academic is doing research on or teaching about, but that is based on their knowledge of the subject and scientific methods in a broad sense or on their experiences as an academic employee
3. ordinary participation in the public debate on all kinds of issues

In our view, only the first two of these forms of dissemination can be regarded as the exercise of academic freedom of expression. It is for this type of dissemination that academic freedom of expression – with its responsibility for quality – is central.

The third form is also important: academic staff can and should participate in the public debate in line with other citizens. However, the freedom they have to do so rests on the general freedom of expression, and is protected and restricted accordingly. We have therefore not included this part of academics' dissemination activities in our investigation.

It is important to note that it is not only the dissemination of issues the individual researcher has specifically researched that is covered by their academic freedom of expression. Academic freedom of expression also covers dissemination pertaining to the individual's field of study in a broad sense, about the findings and research of others that they have particular insight into due to their academic experience or training, about scientific practices and methods, and about the institutional framework for academic work.

The reason for the first point is that a doctor, statistician, lawyer or climate scientist can also contribute to the necessary enlightenment and raising of the general level of knowledge in society in areas far beyond those they are specifically researching. This knowledge would quickly become very difficult to come by if we do not get help from academics who have dissemination as part of their job. If academics were only tasked with disseminating within their own narrow fields of research, we would not have the kind of «open and enlightened public discourse» that the Constitution presupposes.

The reason for the second point mentioned above is that academics may have special knowledge of and experience with questions about scientific methods and the way in which academia

works, is structured and organised. This is a prerequisite for academic work. Legally, it is clear that academics have a particularly broad freedom of expression to voice their opinions about «academic and administrative issues, even if this involves contradicting their superiors or others. The free exchange of academic ideas and information is a fundamental principle and a prerequisite for universities and university colleges to be able to fulfil their mission in a democratic society.»¹¹

3.1.4 Delimitations

In addition to the mandate and the background for the mandate, two other factors have been decisive for the Commission's delimitation of its work: other work already being done on related issues, and the amount of time we have had at our disposal.

Several factors that are of importance for both institutional academic autonomy and individual academic freedom are currently being investigated in parallel to the Commission's work. For example, there is currently a commission looking at funding in the higher education sector,¹² a project to analyse academic freedom and trust in research-based knowledge,¹³ and the Freedom of Expression Commission, which is looking at, among other things,¹⁴ the general developments and how they are affecting the ways in which freedom of expression and information work, as well as the opportunities and challenges posed by new technological infrastructure. Where we have an overview of these parallel projects, we refer to those parts that are relevant to questions concerning academic freedom of expression. We have also not looked at issues that are already being dealt with by these other commissions.

The Commission had its first meeting on 3 September 2021, and will deliver its report in March 2022. There is a limit to what we can investigate and propose in such a short period of time. This means that we have not investigated several issues that are central to academic freedom of expression.

¹¹ Norwegian Supreme Court Report (Rt.) 2011 p. 1011, paragraph 8. <https://lovdata.no/dokument/HRSIV/avgjorelse/hr-2011-1314-u>

¹² The Commission on the Funding of Universities and University Colleges was appointed on 9 September 2021 and submitted its report on 17 March 2022.

¹³ See footnotes 2 and 3, chapter 2.

¹⁴ The Freedom of Expression Commission was appointed on 29 November 2020. www.ykom.no

Artistic development work is another, separate area within academia, in addition to research, teaching and dissemination. Artistic expressions are central to the realisation of the grounds for freedom of expression in general, and the truth-seeking goal of academic freedom of expression in particular. We have not had the opportunity to delve deeper into the particular issues relating to academic freedom of expression that artistic development work raises. The observations and measures proposed in this report apply to artistic development work as and where appropriate.

Academic freedom of expression presupposes both ordinary freedom of expression and academic freedom. There are many prerequisites that must be in place for academic freedom to be safeguarded. There need to be institutions, and they must be organised and administered. The institutions' strategies for the direction they wish to pursue in research and institutional priorities in respect of quality may have an impact on the freedom of the academic staff to choose projects and research questions. Both the institutions and the various research, teaching and dissemination projects need to be funded. The state and institutional governance and position structure must take both institutional and individual academic freedom into account. Funding and prioritisations must take place in a way that allows for academic freedom, both formally and practically. Legal regulations to ensure, among other things, protection of the privacy of the individual, compliance with ethical guidelines and fulfilment of instructions may limit academic freedom in connection with research, teaching and dissemination. Several of these challenges are described in Official Norwegian Report (NOU) 2006: 19 *Academic freedom*, chapter 4.¹⁵ We will touch upon some of these in chapter 6 of this report to the extent that they are relevant, but we have not explored these issues in any depth.

3.2 Why is academic freedom of expression important?

Academic freedom of expression is necessary to promote a number of the ideals presupposed by the rule of law and democracy.¹⁶ In this chapter, we identify some of them. In practice, these ideals face a number of different challenges. We describe some of these challenges in chapter 6.

¹⁵ Official Norwegian Report (NOU) 2006: 19 *Akademisk frihet [Academic freedom]*

Academic freedom of expression: an ever-relevant civic responsibility

In her speech at the Nobel Prize Summit in 2021, Ursula von der Leyen, President of the European Commission, said the following:

A widespread scientific culture is the only antidote against a mentality that sees conspiracies everywhere. So yes, our democracies need science, and yes, we need a new enlightenment.

Conspiracies abound and are difficult to refute – even with knowledge. And since we do not have any other «antidote», academic freedom of expression remains essential.

An absence of informed voices – including both those who are right and those who are wrong, and who thereby create rungs on the ladder towards new insights – weakens our public discourse. People stop seeking the truth. Public spheres can become more conformist – or more confusing. We also need more knowledge, more insight, and more reflection to counter less coordinated fallacies than conspiracy theories – which can range from deliberate misinformation to innocent misunderstandings.

David Hume's assertion that reason is the slave of passions is supported by studies of human behaviour: Emotions and intuitive assumptions distract us from the rational pursuit of the truth all the time – we think we are right, but often we are wrong. Cognitive bias¹⁷ is the tendency we have to favour information that confirms or strengthens our existing beliefs or values, regardless of whether it is incorrect. And to dismiss information that contradicts them, even when it is correct. We regarded scientific evidence as more convincing if it aligns with our existing conceptions and moral values. If we have a particular motive for believing something, we prefer to do so – without asking critical questions. We believe that we ourselves are objective, impartial and rational, while others have hidden agendas. In groups, we are exposed

¹⁶ See also Kierulf, ...*En åpen og opplyst offentlig samtale [An open and enlightened public discourse]* (2017). <https://www.idunn.no/doi/pdf/10.18261/issn.1504-3053-2017-01-04>

¹⁷ See *Bias in psychology*, https://snl.no/bias_i_psykologi. Collections of examples can be found at The Decision Lab Cognitive Biases <https://thedeclarationlab.com/biases> and Infographic Journal: 50 Cognitive Biases To Be Aware of To Be a Better Communicator <https://infographicjournal.com/50-cognitive-biases-to-be-aware-of-to-be-a-better-communicator/>

to dynamics we are not aware of. When we discuss with like-minded people, we do not become wiser or more moderate; rather our beliefs are simply amplified or reinforced. In these kinds of bubbles or echo chambers, we collectively become less critical, even when the reasoning is obviously weak. We have a tendency to agree with the first speaker, and the more people appear to agree, the harder it becomes to be the one who puts forward an alternative view.

It takes time for rationality and afterthought to kick in and moderate our intuitive, emotion-driven (erroneous) conclusions. Often we do not take the time necessary, as «things have got us whirling around so fast». In an increasingly complex everyday life, where we have instant access to huge volumes of information and news spreads like wildfire, our human weaknesses are becoming increasingly apparent. This is further exacerbated by algorithms, the purposes and functioning of which we have little insight into. We become lulled inside reassuring echo chambers or allow our feelings to run away with us at the expense of reason. In addition, the distance between those who have quality-assured knowledge and those who do not is growing. Academic freedom of expression is an inadequate, but absolutely necessary antidote to this.

Society needs its established truths to be challenged

Modern everyday life is full of things that were once sensational, scientific breakthroughs and that we now take for granted. Examples include electricity, aircraft, X-ray machines, penicillin, GPS technology, to name but a few. A decisive driving force behind these and a number of other discoveries has been the ability and willingness to seek the truth – and thus also challenge the established truths. Throughout history, this driving force has at times been associated with risks to one's own life (Giordano Bruno) or reputation (Nicolaus Copernicus, Charles Darwin).

There are also examples from the modern era of the cost of challenging established truths and those who profit from them. They may come from above, in the form of political resistance, intervention or priorities, or from below or outside, in the form of public shaming, intimidation or outright threats.

This is known from research on tobacco and cancer, recent research on the health and environmental impact of industrial food production, and research on epidemics and pandemics. And even if new ideas are not always met with unacceptable

reactions, scientists who cross established patterns and communities may find it difficult to obtain funding. This was the case for a long time for the development of the mRNA vaccine technology that has been so crucial in combating the COVID-19 pandemic.

As individuals and as a society, we have an overwhelming interest in ensuring good conditions for the people who want to seek new knowledge and challenge established truths. A crucial such condition in this respect is academic freedom of expression. In order to be able to develop evidence-based, new knowledge and new understandings, it is essential that ideas can be freely and frankly expressed, exchanged, criticised and developed without fear of reprisals. Free, reason-based discussion and criticism are prerequisites for scientific advances – and for us as a society to be able to benefit from them.

Democracy depends on academic freedom of expression

Academic freedom of expression is both an aspect of and a prerequisite for human rights and democracy. The right to seek, receive, create and impart information and ideas of all kinds is a fundamental human right, and academic freedom of expression is particularly important for actively promoting scientifically produced knowledge.

Democracy presupposes the free exchange of opinions. To this end, we have the general freedom of expression, which ensures the right to assert both well-founded and unfounded opinions. Everyone – including academics – is protected by this freedom.

By contrast, academic freedom of expression is characterised by quality requirements in respect of both content and form (see section 3.1). It ensures the right to methodically seek and express objective knowledge, including the right to criticise and be criticised by one's peers. Consequently, it has a particularly important democratic function: Democracy needs informed debate – for example, about how the rule of law works, whether equal rights for all are secured in practice, whether the democratic institutions and processes are effective in ensuring people's safety and basic services, about the level of civic participation and the division of power, about the relationship between national democracy and international obligations. If this kind of pursuit of the truth and critical debate cannot be conducted without fear of reprisals from the state or others,

we do not have a democracy and respect for human rights.

Democracy also requires strong institutions that are independent of the state. The academic institutions have a particularly important role as guarantors for the freedom to develop and express evidence-based views, even when they are controversial or unpleasant. The academic institutions are therefore an essential part of our democracy.

Academic freedom of expression can promote social, cultural and political diversity

Strong academic institutions help ensure the division of power in society. The academic freedom of expression that these institutions protect can contribute to both diversity and understanding of the importance of diversity. Acceptance of contrary opinions or beliefs is an important component of social mobility, while a lack of such acceptance is exclusionary and inhibiting for people who think and speak differently. Promoting academic freedom of expression is therefore important for the political, social and cultural vitality of society.

Academic freedom of expression can promote trust

A high level of trust is an important pillar in Norwegian society: it contributes to unity and a common social morality, it strengthens individuals' opportunities for self-development, and it is essential for a well-functioning democracy. Open public debate is a necessity to ensure a continued high level of trust in Norway. The level of trust in society is under pressure for a number of reasons, including the proliferation of fake news and growing polarisation on many communication platforms, making it all the more important to ensure there is a large arena for actors who contribute to knowledge-based and solution-oriented public debate. Protecting and strengthening academic freedom of expression – and thereby also strengthening confidence in research and knowledge institutions – is therefore a contribution to safeguarding an important part of Norway's social fabric.

Academic freedom of expression is necessary to resolve the big problems facing society today

To meet the major challenges of our era, we need new knowledge, critical assessment and challenging of established truths, research-based evaluation of measures, and evidence-based trial and

error testing. Many of these challenges – and their solutions – require political trade-offs and are often controversial: climate change and environmental problems, epidemiological crises, refugee and migration issues, and social and economic inequalities. However, it is not only political debates that can become heated; also the fundamental search for new knowledge in these areas of society can easily become the subject of controversy, suspicion or, at worst, intimidation and harassment. This makes it more difficult – but all the more important – for academic staff to make use of their academic freedom of expression: it is precisely these kinds of situations that truly reveal society's need for evidence-based debates and decision-making processes.

An additional challenge going forwards is the increasing time pressure we face to resolve existential challenges. The current climate change and environmental crisis – and the changes it will necessitate – are now so acute that more continuous, critical dialogue between research and decision-makers will be required in the future. The latter need to be able to make decisions quickly, and to promptly correct the course as researchers produce further new knowledge. The fact that scientific work must be done in closer, more continuous interaction with the authorities heightens the importance of understanding and defending the role of science, and protecting and promoting academic freedom of expression.

Academic freedom of expression can strengthen innovation and competitiveness

Norway is facing major and growing challenges related to the need to adapt, in part as a result of the global energy transformation to tackle climate change, demographic changes and geopolitical changes. Parallel to this, Norway also has a growing need to strengthen its ability to innovate. Norway is not currently a leading innovator internationally. Innovation is necessary to ensure competitiveness, jobs and welfare in the future.

Innovation is driven by challenging established truths. Since policies and public debate are often rooted in existing technologies and organisational solutions, and prevailing values and social norms, we need people and environments that challenge conventional wisdoms and push the boundaries of what we believe is possible. It is therefore important that the academic institutions encourage their employees to exercise their academic freedom of expression to test out new ideas, take part in the public debate, criticise the

current systems, and offer ideas for improvements. This freedom is also an important driver for the pursuit of knowledge that might not immediately seem useful, but which may turn out to be fruitful: many epoch-making discoveries and innovations were the result of curiosity-driven research that did not begin with any specific goal.

Academic institutions are not – and should not be – actors in a commercial market, but they are key suppliers of knowledge that enables innovation and new market opportunities for trade and industry. Internationally competitive research

communities that are powerhouses for expertise and creativity can contribute to innovation in local trade and industry, while drawing knowledge-based business opportunities and investments to the country. These kinds of research communities can also contribute to both increasing the level of knowledge in society and ensuring that we have a workforce with the required skills and expertise, which are two of the most important factors for strengthening Norway's ability to compete internationally.

Chapter 4

Academic freedom of expression internationally

4.1 Introduction

Protecting and promoting academic freedom of expression is not only a national affair. Internationalisation, i.e. collaboration between academic communities and the exchange of academic staff and students across national borders, is necessary to solve the challenges facing society today, meaning academic staff and students are far more mobile than previously. The Commission's mandate includes describing threats to academic freedom in light of international developments. The fact that this is a global challenge is underlined by the UN Secretary-General's stark warning against the «infodemic plaguing our world» and the «war on science». He calls upon the UN member states to defend a common, empirically backed consensus around facts, science and knowledge.¹

4.2 Challenges

Internationally, academic freedom and freedom of expression face a wide range of different threats, some of which are more transferable to Norway than others. In the following, the Commission will focus on three developments in particular. First, global online platforms have a major impact on the conditions for academic freedom and freedom of expression, also in Norway. Second, trends and tendencies can be identified in some of our closely associated nations that to varying degrees have spread or may spread to Norway. Third, some countries that are not in the category of «closely associated nations» may exert an influence on aca-

ademic freedom of expression in Norway through collaborative research partnerships, etc.

4.2.1 Online attacks on knowledge and stewards of knowledge

Misinformation, disinformation, denial of facts and conspiracy theories are not new phenomena. Throughout history, political interests, economic interests and popular delusions have contributed false claims, such as that the Holocaust never happened, the world is ruled by the Illuminati, tobacco is not harmful, and climate change is a hoax.

What is new in historical terms is that we now, for the first time, have a common global public sphere where discussions take place in real time and where virtually everyone can take part, unfiltered. And we have global communication platforms that stimulate, accelerate and globalise the spread of untruths. Social media are run on a business model that rewards posts that are sensational and polarising. Since untruths are often more sensational than truths, and social media do not distinguish clearly between fact and fiction, attacks on knowledge and stewards of knowledge have never been easier, occurred more rapidly, or reached such a wide audience.

This development benefits political populists, nationalists and autocrats, who are served by polarising the debate and stoking animosity. The academic elite is an easy target, allowing populists to combine lies with branding of those who promote and manage knowledge as the enemy.

We also see that the developments mentioned have a strong impact on the framework conditions for the exercise of academic freedom of expression, with ripple effects far beyond social media platforms. In several countries, researchers on politically sensitive topics such as immigration and integration, gender and climate change² have been exposed to intimidating, hateful and threatening responses when participating in the public debate. During the COVID-19 pandemic, immu-

¹ Secretary-General's report on *Our Common Agenda*. The purpose of the report is, among other things, to promote the implementation of the UN Sustainable Development Goals. In this context, it is worth mentioning that freedom of expression and the right to information are covered by the UN Sustainable Development Goal no. 16 on peace, justice and strong institutions, one of the underlying targets of which is to ensure public access to information and protect fundamental freedoms. <https://www.un.org/en/content/common-agenda-report/summary.shtml>

nologists and public health experts were particularly at risk.³ These tendencies have also been seen in Norway: Norwegian researchers in these fields are among those who self-censor to the greatest extent in their dissemination.⁴ This kind of self-censorship occurs not least out of fear of negative reactions from colleagues, with some people concerned about the possible consequences for their academic merit ranking due to subtle threats and harassment from within academia. However, fear is also created by pressures from outside academia, such as interference by politically motivated actors or foreign intelligence services.⁵

The situation is not without its paradoxes, since many countries have a more highly educated population and a stronger culture of knowledge than ever before. Parallel to this increase in threats to and intimidation of researchers, there has also been an increase in the public's trust in research during the pandemic.⁶ Digitalisation and social media have also contributed to the professionalisation of research dissemination, as well as making it easier for researchers themselves to access others' research and impart their own research to more people.

4.2.2 Developments in selected countries: challenges to academic freedom

Global developments are also having an impact in countries that are close to Norway and with which

we have extensive academic cooperation. We are therefore also seeing trends and tendencies that to varying degrees have spread or may spread to Norway. The Commission has gathered information about the situation in a number of selected countries. Although there may be differences in the framework conditions in the various sectors and institutions, there are clear commonalities in terms of both restrictions on academic freedom of expression and initiatives to defend it. Below are examples of various types of interference and limitations from different countries.

Political, legal and administrative limitations of academic freedom

Both academic freedom and freedom of expression have long and strong traditions in the USA. Despite this, restrictions have been imposed on the extent of these freedoms in recent decades. One frequently cited explanation is that permanent positions have increasingly been replaced by temporary employment.⁷ The development has been further amplified by the technological, social and political dynamics in American society. During Trump's presidency, for example, it was forbidden for the administration or researchers in public institutions to use the phrase «climate change».⁸ The ideological polarisation in connection with the COVID-19 pandemic has also contributed to higher levels of conflict and attacks on researchers.

A number of political guidelines at both the national and regional level have had a negative impact on academic freedom of expression. For example, in 2020 Donald Trump issued a presidential order on «Combating Race and Sex Stereotyping», which prevented universities from using funds to «promote» racial and gender stereotypes that the administration deemed «divisive». This presidential order has now been revoked. However, this has not prevented a number of senators in states such as Arkansas, Iowa, New Hampshire and Oklahoma from launching similar bills to regulate discussions of race on campus.

Many Republican politicians in the USA seem to regard universities as tantamount to enemies of

² A group of researchers recently created an open access journal, the Journal of Controversial Ideas, to promote the free examination of controversial topics, where researchers can publish under a pseudonym to protect them from threats to their careers or their personal safety. The OsloMet report also refers to a number of examples where researchers have experienced harassment and threats, such as gender researchers in Sweden. <https://journalofcontroversialideas.org/>

³ See, for example, from the USA: After Threats, Anthony Fauci to Receive Enhanced Personal Security – The New York Times ([nytimes.com](https://www.nytimes.com)), and from Sweden: Jonas F Ludvigsson slutar forska efter hat och hot [Jonas F Ludvigsson stops researching after abuse and threats] – dn.se

⁴ Mangset, M., Midtbøen, A.H. Thorbjørnrud, K., Wollebæk, D., Fladmoe, A. (2021). *Forskere og offentligheten – om yttringsfrihet i akademien [Researchers and the public sphere – on freedom of expression in academia]*. Institute for Social Research (ISF) <https://hdl.handle.net/11250/2759833>

⁵ During the pandemic, both the Norwegian Directorate of Health and the Norwegian Institute of Public Health (FHI) have filed police reports pertaining to threats to and harassment of researchers.

⁶ *How Covid-19 has increased the world's trust in science* The Wellcome Global Monitor 2020: Covid-19 report. <https://wellcome.org/news/how-covid-19-has-increased-worlds-trust-science>

⁷ According to the American Association of University Professors (AAUP), since 2016 only an estimated 27 per cent of the academic workforce in the USA is in a permanent post.

⁸ An example from the press about the use of the word «climate change» in the US Energy Department: Energy Department climate office bans use of phrase 'climate change' <https://www.politico.com/story/2017/03/energy-department-climate-change-phrases-banned-236655>

society and are trying to challenge academic freedom at a variety of different levels – institutionally, at the faculty level, and individually. Florida has recently announced the introduction of annual surveys of university professors' ideological views and is offering legal protection to students who report what they consider to be ideological statements from their lecturers.

The Foundation for Individual Rights in Education (FIRE) has reported on several court cases where interference with academic freedom is an issue. In October 2021, the University of Florida prohibited three professors from providing expert testimony in court, because it was deemed to be contrary to the university's interests as a public university that employees took part in a court case against the state authorities.

In an open letter from FIRE to President Biden in 2021, it was pointed out that several universities and colleges have unconstitutional rules and unreasonable disciplinary procedures: «students and faculty of all political persuasions and demographic backgrounds are routinely censored and denied any semblance of a fair, impartial hearing...».

Perhaps the best-known case of a Western country launching a direct attack on academic freedom is *Hungary*. The most notable example is the legislative amendments that led to the closure of the Central European University (CEU)'s main campus in Budapest in 2018, resulting in the university moving to Vienna.⁹ Since then, several legislative and regulatory changes have been introduced that allow academic institutions to be monitored by the government and its supporters. Gender study programmes have been removed from Hungarian universities by government decree. These kinds of restrictions affect the entire Hungarian higher education system. In 2021, Norway decided to suspend all payments to Hungary through the European Economic Area (EEA) and Norway Grants schemes, because Hungary would not agree to an independent manager for the fund for civil society. The suspension of funds also applies to the research programme.

In *Poland*, political interference in the media and the judicial system during the Law and Justice (PiS) party's term of office has fuelled a worrying development for freedom of expression, which is also affecting the higher education sector. In 2020,

the Polish education minister stated that he would reduce funding for universities that helped students and staff take part in the «women's strike» in connection with the ban on abortion in Poland. The criticism was directed at the rectors of the universities in Wrocław and Gdansk in particular, who had granted staff time off and encouraged students to take part in the demonstrations.¹⁰ In 2021, a court asked two renowned Holocaust scholars to apologise to a person for defaming her late uncle over his wartime actions.¹¹ The ruling party stated that it views allegations of Polish complicity as dishonouring the country.¹² This judgment must be viewed in light of this and has had a chilling effect on academic freedom in Poland, according to the Scholars at Risk network.

The situation for academic freedom in *Turkey* became severely strained after the failed coup attempt in 2016. Many academics were imprisoned and persecuted during the ensuing state of emergency. A number of universities and student halls of residence were shut down as a result of a decision that gave the government the right to intervene in the autonomy of universities. Scholars at Risk's latest reports show that academics are still being arrested and prosecuted in Turkey. The authorities have implemented mass dismissals of academics with a permanent ban on employment, public service and foreign travel. A clear majority of the academics who were not dismissed and who are still working in academia report that they do not feel free to share knowledge and voice their opinions, even in scholarly publications and at academic gatherings. Turkish President Erdoğan's appointments and dismissals at the prestigious Bosphorus University over the past year have led to widespread protests.¹³

One of the countries with the most dramatic deterioration in academic freedom in recent years

⁹ Central European University – information dated 3 December 2018: <https://www.ceu.edu/article/2018-12-03/ceu-forced-out-budapest-launch-us-degree-programs-vienna-september-2019>

¹⁰ Article on Wyborcza.pl, dated 6 November 2020: Minister of Education is threatening to cut funding for universities that support the women's protest <https://wyborcza.pl/7,173236,26486997,the-minister-of-education-is-threatening-to-cut-funding-for.html>

¹¹ Article published in The Guardian on 9 February 2021: Fears for Polish Holocaust research as historians ordered to apologise <https://www.theguardian.com/world/2021/feb/09/fears-polish-holocaust-research-historians-ordered-apologise>

¹² Article on the BBC 1 February 2018: Poland's Senate passes controversial Holocaust bill <https://www.bbc.com/news/world-europe-42898882>

¹³ Article posted in the Norwegian online newspaper for higher education and research Khrono.no on 2 February 2022 on the protests in Istanbul <https://khrono.no/forst-raste-de-mot-ny-rektor-na-vekker-fjerningen-av-tre-dekaner-frykt/657559>

is *India*,¹⁴ which is also one of Norway's priority partner countries for higher education and research. Many researchers are experiencing restrictions in their right to express their ideas and opinions. Reports from Scholars at Risk show that political tensions in India have led to violent riots on campuses between students, security forces and groups from outside the campus. The authorities have prosecuted academics under the country's anti-terrorism laws and have introduced disciplinary actions against academics who criticise Prime Minister Modi, his Hindu nationalist party the Bharatiya Janata Party (BJP), and his government. The freedom of researchers and academics to discuss politically and culturally sensitive topics has been severely curtailed. The state interferes in academic issues and other topics at most of the universities in the country, and it is common for senior positions in the sector to be highly politicised. India's ranking on the Academic Freedom Index is now on a par with Russia and Brazil – which have also fallen considerably over the last ten years – and is now lower than Pakistan's.

One important country that falls into a slightly different category is *China*, which has no tradition of academic freedom. In connection with China's emergence as a global superpower and research nation in recent decades, some of the country's universities and research institutions are now also ranked among the leading academic institutions in the world. The development from the 1980s to the 2010s was characterised by gradually increased openness and academic freedom, albeit still far behind by Western standards, and strengthened international academic cooperation. This trend has now reversed. Joint publishing between the USA and China stagnated in 2020 and declined in 2021, but relative to other international collaboration, there has been a clear decline since 2016.¹⁵ The Chinese authorities have tight-

ened their grip on the universities,¹⁶ and research is subject to strict restrictions, especially research into the origins of COVID-19.¹⁷

Defence of academic freedom – which may also entail challenges

There is an ongoing debate in many countries about conformity, cancel culture and identity politics in academia.¹⁸ This applies, for example, to cases where students find something in the teaching offensive, often resulting in staff no longer wanting to or being willing to voice their opinions.¹⁹

In November 2021, the Massachusetts Institute of Technology (MIT) cancelled a guest lecture by a University of Chicago lecturer who has compared academia's «diversity regime» to Nazism. This triggered a debate that was further intensified as a result of the fact that Princeton University chose to invite the same lecturer to hold a guest lecture. This case has resulted in the establishment of a committee at MIT to discuss whether separate guidelines need to be developed for academic freedom.

Another manifestation of criticism of conformity is accusations of «research activism». A majority of the Danish parliament voted in favour of adopting a statement highlighting the principle of academic self-regulation as essential to ensure research quality and freedom of thought in order to counter what they considered excessive activism in certain research communities.²⁰ This was met by strong protests from many researchers, who were concerned that rather than leading to increased diversity, it would undermine their freedom of research and lead to more self-censor-

¹⁴ Katrin Kinzelbach, Staffan I. Lindberg, Lars Pelke, and Janika Spannagel. 2022. Academic Freedom Index 2022 Update. FAU Erlangen-Nuremberg and V-Dem Institute. DOI: 10.25593/opus4-fau-18612. <https://www.pol.phil.fau.eu/files/2022/03/afi-update-2022.pdf>

¹⁵ Times Higher Education (THE): US–China research collaboration 'waning' (February 2022) <https://www.timeshighereducation.com/news/us-china-research-collaboration-waning> and National Science Foundation's indicator report show stagnation. (Publications Output: U.S. Trends and International Comparisons. October 2021). <https://nces.nsf.gov/pubs/nsb20214/international-collaboration-and-citations> NIFU arbeidsnotat 2022-1 *Norway's scientific collaboration with China in a global context* discusses US and Chinese perspectives on the decline. <https://hdl.handle.net/11250/2983834>

¹⁶ American Association of University Professors (AAUO): Academic Freedom and China. (Fall 2019.) <https://www.aauo.org/article/academic-freedom-and-china#.YjI-J4-ZNaT>

¹⁷ AP News: China clamps down in hidden hunt for coronavirus origins (30 December 2020) <https://apnews.com/article/united-nations-coronavirus-pandemic-china-only-on-ap-bats-24fbadc58cee3a40bca2ddf7a14d2955>

¹⁸ The report *Et ytringsklima under press? [A climate of expression under pressure?]* <https://www.regjeringen.no/no/dokumenter/et-ytringsklima-under-press/id2893147/>

¹⁹ The University of Austin tackling self-censorship: <https://www.texastribune.org/2021/11/08/university-austin-founders-college-culture/>

²⁰ On 1 June 2021, the Danish parliament adopted a statement on excessive activism in certain research communities <https://www.ft.dk/samling/20201/vedtagelse/v137/index.htm>

ship.²¹ The OsloMet report²² points out that the Danish right's «cultural struggle» against the left's alleged dominance at universities and in cultural life began long before the debate on identity politics and cancel culture, and the example from Denmark is therefore perhaps another example of a public debate characterised by a polarised struggle over perceptions of reality.

In France, the Minister of Higher Education, Research and Innovation caused an uproar by launching an investigation into activism-driven research and calling for greater pluralism in the research sector in the wake of the so-called «Islamist-leftism» debate.²³ She held that there are voices in academia that are being silenced and that the state must intervene to ensure diversity of opinion. Among other things, all French institutions must have separate advisors for ethics, reporting irregularities («whistle-blowing») and academic integrity, and a national ethics committee shall be activated in cases of pressure on academic freedom of expression.

In the UK too, the science minister has raised the issue by putting forward a bill to protect freedom of expression in higher education.²⁴ The bill requires universities and student unions to protect academic freedom of expres-

sion, by, for example, offering compensation to individuals who are denied the use of the institution's premises (so-called «deplatforming»), and through the establishment of an ombud to monitor cases of deplatforming, academic dismissals, etc. The objective is to protect students, academic staff and visiting researchers who voice controversial opinions. Critics of the bill point out that it might have unforeseen consequences, such as forcing universities to provide a platform for and protect Holocaust deniers. It was noted that the use of fines might serve to reduce, rather than increase, freedom of expression at universities.

4.2.3 Academic freedom and collaboration with challenging states

Academic freedom of expression is under pressure both within individual countries and across national borders. This is making international collaboration both more important than ever and more difficult. Collaboration can help defend academic freedom by providing individual researchers with more platforms and protection against government interference. However, collaboration can also entail a risk of curtailment of academic freedom of expression. Collaboration with researchers in authoritarian states may be limited by these countries' authorities preventing research on specific topics or cracking down on research-based social criticism. There is direct political interference in research and politically motivated restrictions on dissemination in several relevant countries. Around the world, state authorities are responsible for researchers, educators and students being subject to threats, persecution, torture, wrongful deportation, prosecution or imprisonment.²⁵

Some states do not stop at their own borders in their attacks on their country's researchers or students. In Australia, there is currently heated debate about hostile Chinese interference and harassment of Chinese overseas students, in part

²¹ In response to the parliamentary decision, 262 researchers, many from migration research and gender research, signed a petition in the newspaper Politiken. They objected to what they perceived as harassment in their work as a researcher, and were also concerned about their freedom of research. <https://politiken.dk/debat/debatindlaeg/art8234438/Vi-bliver-intimideret-og-chikaneret-i-en-%C3%A5dan-grad-at-flere-er-blevet-sygemeldt>. A few days later, 3,241 researchers from a wide range of disciplines, including several Norwegian academics, signed an open letter in support of the petition. They called on the government to retract the decision. <https://politiken.dk/debat/debatindlaeg/art8237629/Tag-klar-afstand-fra-angreb-et-p%C3%A5-forskningsfriheden.-Det-kan-f%C3%B8re-til-selv-censur?shareToken=zqntL7AAfNLg>

²² The report *Et ytringsklima under press? [A climate of expression under pressure?]*

²³ Articles discussing the debates in the wake of French Minister of Higher Education Vidal calling for an investigation into «Islamist-leftism» at universities, the origin of the term, and the further handling of the matter: <https://khrono.no/hun-vil-granske-islam-venstre-pa-universitetene-det-har-skap-storm/556915>, https://www.lemonde.fr/idees/article/2021/02/20/islamo-gauchisme-nous-universitaires-et-chercheurs-demandons-avec-force-la-demission-de-frederique-vidal_6070663_3232.html, https://universiteouverte.org/2021/02/19/demission_vidal/, https://www.lemonde.fr/politique/article/2021/02/22/emmanuel-macron-empetre-dans-le-debat-sur-l-islamo-gauchisme_6070756_823448.html, https://www.lemonde.fr/societe/article/2021/06/10/islamo-gauchisme-a-l-universite-la-ministre-frederique-vidal-accusee-d-abus-de-pouvoir-devant-le-conseil-d-etat_6083618_3224.html

²⁴ Government bill: *A Bill to make provision in relation to freedom of speech and academic freedom in higher education institutions and in students' unions; and for connected purposes*. Higher Education (Freedom of Speech) Bill <https://bills.parliament.uk/bills/2862>

²⁵ Scholars at Risk's Academic Freedom Monitoring Project investigates and reports attacks on higher education with the aim of raising awareness, generating advocacy, and increasing protection for scholars, students, and academic communities. <https://www.scholarsatrisk.org/academic-freedom-monitoring-project-index/>

based on a report by Human Rights Watch.²⁶ Based on interviews of 48 Chinese-speaking students, the report describes how China is trying to influence the image of China on foreign campuses, influence academic discussions, monitor Chinese students, censor research work, and otherwise curtail academic freedom. In response, the Australian Department of Education, Skills and Employment, in partnership with Australian universities, has published updated guidelines to counter foreign interference in Australia's university sector.²⁷

Collaboration with universities and research communities in authoritarian states may entail a heightened risk of self-censorship.²⁸ For example, even world-leading universities in the USA have been accused of bending to appease China.²⁹ In May 2019, the Trump administration established the Joint Committee on the Research Environment (JCORE) with the aim of re-introducing «American values» in the R&D sector and at universities. This work has been continued by the Biden administration.

For democratic societies – and their academic institutions – the trust and openness on which they rest may entail a vulnerability in collaboration with authoritarian states. There has been an increased focus on the risk of espionage, cyberattacks and knowledge transfer in sensitive areas in several Western countries.

Russia invaded Ukraine on 24 February 2022. In response, the EU has adopted a comprehensive package of sanctions,³⁰ including suspension of payments to Russian institutions involved in EU-funded research and innovation projects.³¹ The

war in Ukraine is also having consequences for higher education and research in Norway. The Norwegian government has decided to freeze all bilateral cooperation between Norwegian and Russian authorities. The negotiated research agreement with Russia has been put on hold. However, no general academic boycott of Russia has been introduced, and individual research collaboration projects may be continued. The current advice is that researcher-to-researcher collaboration should be continued as long as the institutions consider it prudent. The government is working on measures to support students from the affected countries in Norway, and has encouraged universities and university colleges to contribute by allowing refugee students to study and offering work to refugee researchers and academics.³²

The Commission discusses Norway's challenges in international partnerships in more detail in section 6.3.4.

4.3 Different types of initiatives to protect and strengthen academic freedom

Naturally enough, in light of the diversity of the threats and challenges to academic freedom and freedom of expression, various initiatives have emerged for the purpose of protecting these freedoms. The Commission will present a selection of examples that illustrate the breadth of these initiatives.

4.3.1 Alliances

Many countries have established alliances for academic freedom. In the USA, the Academic Freedom Alliance (AFA) was launched in March 2021 by professors from Princeton University, and now includes academics from a variety of different university communities with different political affiliations.³³ In Europe, a group of 130 professors from

²⁶ Human Right Watch: «They Don't Understand the Fear We Have» *How China's Long Reach of Repression Undermines Academic Freedom at Australia's Universities*. https://www.hrw.org/sites/default/files/media_2021/06/australia0621_web_0.pdf

²⁷ Guidelines to Counter Foreign Interference in the Australian University Sector – Department of Education, Skills and Employment, Australian Government. <https://www.dese.gov.au/guidelines-counter-foreign-interference-australian-university-sector/resources/guidelines-counter-foreign-interference-australian-university-sector>

²⁸ Mangset, M., Midtbøen, A.H. Thorbjørnrud, K., Wollebæk, D., Fladmoe, A. (2021). *Forskerne og offentligheten – om yttringsfrihet i akademia [Researchers and the public sphere – on freedom of expression in academia]*. Institute for Social Research (ISF) <https://hdl.handle.net/11250/2759833>

²⁹ See, for example, America's Elite Universities Are Censoring Themselves on China <https://newrepublic.com/article/150476/american-elite-universities-selfcensorship-china> The End of the Harvard Century <https://www.the-crimson.com/article/2020/4/23/harvard-china-scrutiny/>

³⁰ The EU packages of sanctions: <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-ukraine-crisis/>

³¹ The EU's suspension of payments to Russian partner institutions in research and innovation projects and other countries' boycotts are discussed here: <https://sciencebusiness.net/news/eu-suspends-research-payments-russian-partners>

³² The government puts research and education cooperation with Russia on hold: <https://www.regjeringen.no/no/aktuelt/regjeringen-fryser-forsknings-og-utdanningssamarbeidet-med-russland/id2903021/>

³³ Academe Blog: The Academic Freedom Alliance: A Q&A with Keith Whittington <https://academeblog.org/2021/03/17/the-academic-freedom-alliance-a-qa-with-keith-whittington/>

Germany, Austria and Switzerland have established a similar network for academic freedom.³⁴

4.3.2 Guidelines, declarations and policy statements

Another widely used strategy is the formulation of *guidelines and policy statements*. In the USA, several professional organisations, such as the American Federation of Teachers (AFT), have published formal statements of position on academic freedom.³⁵ Many universities have also drawn up internal guidelines on academic freedom, in the form of policy statements on academic freedom.³⁶

In Europe, Dutch universities are currently compiling a guide for institutions and researchers on participation in public debate. Following the so-called beef scandal in Denmark, a number of Danish universities, together with the Ministry of Education and Science, have published guidelines on sponsored research and consultancy work with recommendations covering contracts, data collection and quality assurance of results, but also researchers' freedom of expression in connection with publishing and communicating research findings.³⁷ The Finnish Union of University Researchers and Teachers (FUURT) has prepared guidelines on how researchers can deal with online harassment.³⁸

4.3.3 Campaigns and support initiatives

A third strategy is organised *campaigns and support initiatives*. Two years ago, a major campaign for academic freedom was carried out in Germany involving everyone who was active in the research system. The topic was considered

³⁴ Netzwerk Wissenschaftsfreiheit <http://www.netzwerk-wissenschaftsfreiheit.de/en/home-2/>

³⁵ Academic Freedom <https://www.aft.org/position/academic-freedom>

³⁶ Cornell University. The Faculty Handbook. *Cornell Policy Statement on Academic Freedom and Freedom of Speech and Expression*. <https://theuniversityfaculty.cornell.edu/the-new-faculty-handbook/statement-on-academic-freedom-and-freedom-of-speech-and-expression/>

³⁷ Nye principper og anbefalinger om forskningsbaseret samarbejde og rådgivning [New principles and recommendations on research-based collaboration and practical advice] – Universities Denmark <https://dkuni.dk/pressemeddelelser/nye-principper-og-anbefalinger-om-forskningsbaseret-samarbejde-og-raadgivning/>

³⁸ Know Your Rights: Guidelines for dealing with online harassment <https://tieteentekijat.fi/en/know-your-rights-guidelines-for-dealing-with-online-harassment/>

particularly relevant for the situation in Germany's immediate neighbours. The German parliament has called on the government to end cooperation with countries that restrict academic freedom, while others see Germany as building bridges to difficult counterparties and providing a lifeline for researchers, students and academics in these countries. The Phillip Schwarz initiative gives researchers in countries where academic freedom is challenged the opportunity to continue their research in Germany. Many scholars from Turkey make use of this scholarship. The German Academic Exchange Service (DAAD) provides similar scholarships for students from Belarus, which have been particularly relevant since the 2020 presidential election.

In Finland, 2021 was declared as the Year of Research-Based Knowledge, with the goal of making research-based knowledge more visible and accessible, and in this connection academic freedom was also put on the agenda.³⁹

In 2023, Sweden will hold the Presidency of the Council of the European Union and in this context has indicated that academic freedom will be one of the research and innovation focus areas for their presidency.⁴⁰

4.3.4 Legislative protection of academic freedom of expression

In several countries, academic freedom is regulated by law, albeit with wide variations in how clearly the legislation regulates individual and institutional rights.

Academic freedom is a constitutional right in some countries. For example, in Germany, freedom of research and academic freedom of expression are enshrined in the constitution. In the USA, the Supreme Court has concluded in multiple court cases that academic freedom is to be regarded as a constitutional right. In Europe, the European Court of Human Rights has underlined in several cases that academic freedom of expression is protected by Article 10 of the European Convention on Human Rights.

In the USA, one of the first things the Biden administration did was to present a presidential decree with the aim of restoring people's trust in the government through scientific integrity and

³⁹ Year of Research-based knowledge 2021; <https://tutkittutiето.fi/en/>

⁴⁰ In the minutes from the ERAC council meeting of 30 September 2021.

evidence-based policy making.⁴¹ A separate Scientific Integrity Fast-Track Action Committee (SI-FTAC) has been appointed to pave the way for this work. The Committee has recently presented a report on integrity in government-commissioned research activities.⁴² It should also be noted that six of the 27 presidential orders signed by President Biden in the first few days after his inauguration can be regarded as having a positive impact on academic freedom.

In Sweden, academic freedom as a general principle of all activity at universities and university colleges has recently been enshrined in their Higher Education Act (inspired by Norway).

4.4 International organisations, etc.

A number of international organisations of which Norway is a member, and the EU, where Norway is a committed and integrated partner in education and research cooperation, have activities that play an important role in promoting and protecting academic freedom and freedom of expression. Below is a brief overview of the initiatives and arenas that are most relevant to Norway.

The United Nations

The United Nations Educational, Scientific and Cultural Organization (UNESCO) works with various aspects of freedom of expression and challenges related thereto. They have prepared recommendations on science and researchers (the UNESCO Recommendations on Science and Scientific Researchers (2017)), addressing rights and standards linked to research, and in 2020 the Special Rapporteur for Freedom of Opinion and Expression also reported on academic freedom for the first time.⁴³ Academics were encouraged to articulate allegations of violations and make the institutions aware of them. Denmark's delegation

to UNESCO has mapped the work in a recently published report: *Critical Voices: UNESCO's Instruments in Defence of Freedom of Expression of Artists, Journalists and Scientific Researchers*.⁴⁴

In a speech to the General Assembly of the United Nations,⁴⁵ the UN Secretary-General highlighted challenges such as the war on science, the misuse of data, misinformation and cybercrime. He has proposed the establishment of a global code of conduct to combat misinformation online and promote integrity in public information.

The Council of Europe

The Council of Europe has a number of initiatives to promote freedom of expression in connection with schools, teaching and research.⁴⁶ For example, in 2019 the Council organised a large global forum on academic freedom, institutional autonomy and the future of democracy,⁴⁷ which resulted in a declaration with recommendations for, among others, the Ministerial Conference of the European Higher Education Area (EHEA) in 2020.⁴⁸

OECD

Academic freedom is a recurring topic, explicitly or implicitly, in much of the OECD's work and especially in the Global Science Forum. There is currently a project working on scientific integrity and security,⁴⁹ which aims to strike a balance between academic freedom and transparency on the one hand and national economic and security interests on the other. This work was initiated to

⁴¹ Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking 27 May 2019 January 2021: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/memorandum-on-restoring-trust-in-government-through-scientific-integrity-and-evidence-based-policymaking/>

⁴² Scientific Integrity Task Force: <https://www.whitehouse.gov/ostp/nstc/scientific-integrity-task-force/> and the report: https://www.whitehouse.gov/wp-content/uploads/2022/01/01-22-Protecting_the_Integrity_of_Government_Science.pdf

⁴³ Report A/75/261 of the Special Rapporteur for Freedom of Opinion and Expression: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/197/86/PDF/N2019786.pdf?OpenElement>

⁴⁴ *Critical Voices. UNESCO's Instruments in Defence of Freedom of Expression of Artists, Journalists and Scientific Researchers*, Permanent Delegation of Denmark to UNESCO (um.dk). <https://unesco.um.dk/>

⁴⁵ Secretary-General's remarks to the General Assembly on his Priorities for 2022. <https://www.un.org/sg/en/node/261517>

⁴⁶ One initiative for the school sector is «Free to Speak – Safe to Learn», in which the European Wergeland Centre is involved: <https://www.coe.int/en/web/campaign-free-to-speak-safe-to-learn>

⁴⁷ Global forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy June 2019. <https://www.coe.int/en/web/education/globalforum>

⁴⁸ Global Forum on Academic Freedom, Institutional Autonomy, and the Future of Democracy. Declaration June 2019 <https://rm.coe.int/global-forum-declaration-global-forum-final-21-06-19-003-/16809523e5>

⁴⁹ The project «Integrity and security in the global research ecosystem: managing conflicts of interest and conflict of commitment» is largely closed to other member states, but policy recommendations are scheduled to be published in the second half of 2022.

address concerns that information leaks and foreign interference pose a serious risk to national security and economic interests as well as a threat to academic freedom through some countries abusing the openness and transparency in academia. Another relevant OECD project is the report on scientific advice and the role and responsibilities of individual experts and scientists, motivated by the L'Aquila earthquake, where scientists who had given advice were prosecuted and convicted of manslaughter. The report links academic freedom to responsibility.⁵⁰

EU

The proposals from the Council of Europe's global forum were followed up in the 2020 Rome Communiqué on academic freedom.⁵¹ This was adopted at the ministerial meeting of the Bologna Process by the 49 countries participating in the EHEA/Bologna process that coordinates and develops joint measures and policies for higher education. Both the Rome Communiqué and the Declaration of the Council of Europe came in response to the Central European University in Budapest being evicted from Hungary in 2018. As a follow-up to developments in Europe, the International Bonn Declaration on Freedom of Scientific Research was adopted by the EU in autumn 2020 and has been signed by all the member states and Norway.⁵²

Through the EEA Agreement, Norway is an active participant in the EU's cooperation on education, research and innovation through the world's largest research and innovation programme, Horizon Europe, and the European Research Area (ERA), as well as through the Erasmus+ programme for education, training, youth and sport, and the European Education Area.⁵³

Norway's participation provides Norwegian educational and research communities with a multitude of opportunities for funding for high-quality projects and mobility and defines the framework for the development of policy in the disciplines. Horizon Europe has recently become more strongly oriented towards finding solutions to societal challenges and aims to contribute to increased trust in research. The Commission has identified a number of knowledge needs that Horizon Europe is to meet – distrust of authorities, democratic institutions and experts, disinformation, fake news and hate speech – that they want to address in the work programme for the period 2022–2024. The Commission is therefore preparing calls for proposals on these issues.⁵⁴

In autumn 2021, the European Parliament's Panel for the Future of Science and Technology (STOA) argued that EU treaties ought to contain specific references to academic freedom.⁵⁵ The European Parliament is discussing whether an evaluation of academic freedom in member states should be included in the mid-term evaluation of Horizon Europe.⁵⁶

The Council's conclusions from December 2020 on a new European Research Area (ERA)⁵⁷ include strengthening and monitoring academic freedom in the higher education sector and ensuring compliance with the Bonn Declaration. They ask the Commission, member states and academic institutions to follow the experiences of the Bologna Process closely and assess its implications for research and work together in particular with respect to potential indicators, evaluation and

⁵⁰ OECD (2015), «Scientific Advice for Policy Making: The Role and Responsibility of Expert Bodies and Individual Scientists», OECD Science, Technology and Industry Policy Papers, no. 21, OECD Publishing, Paris, <https://doi.org/10.1787/5js3311jcpwb-en>.

⁵¹ Rome Ministerial Communiqué: http://www.ehea.info/Upload/Rome_Ministerial_Communique_Annex_I.pdf

⁵² The Bonn Declaration on Freedom of Scientific Research: https://www.bmbf.de/bmbf/shareddocs/downloads/files/_drp-efr-bonner_erklaerung_en_with-signatures_-maerz_2021.pdf?__blob=publicationFile&v=1

⁵³ See the Norwegian government's strategies for Norway's participation in these long-term programmes: <https://www.regjeringen.no/contentassets/68895f46b6f34f1a9294-ca3be7d25265/212540-kd-strategi-horisonteuropa-web.pdf>; <https://www.regjeringen.no/contentassets/b5b57900ef6b4542b8b2d70b2c46b658/212540-kd-strategi-erasmus-web.pdf>

⁵⁴ See the work programme, which is currently under development, for the period up to the end of 2024 for Cluster 2 in Horizon Europe: Culture, creativity and inclusive society. The work programme for 2021–2022 also mentions issues related to threats and academic freedom: https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/horizon/wp-call/2021-2022/wp-5-culture-creativity-and-inclusive-society_horizon-2021-2022_en.pdf

⁵⁵ The Charter of Fundamental Rights of the European Union does not define academic freedom: Article 13: *Freedom of the arts and sciences. The arts and scientific research shall be free of constraint. Academic freedom shall be respected.* <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2007:303:FULL&from=EN>

⁵⁶ MEPs push to include academic freedom in EU treaties: https://sciencebusiness.net/news/meps-push-include-academic-freedom-eu-treaties?utm_source=Science%7CBusiness+Newsletters&utm_campaign=d7d5628762-EMAIL_-CAMPAIGN_4_26_2021_17_43_COPY_01&utm_medium=email&utm_term=0_179178d214-d7d5628762-138560363

⁵⁷ Council conclusions on the New European Research Area, Brussels, 1 December 2020: <https://data.consilium.europa.eu/doc/document/ST-13567-2020-INIT/en/pdf>

monitoring methods and their relevance for further reinforcing freedom of scientific research within the ERA.

In one of the Council conclusions, the Commission called for a pact on research and innovation for the new ERA.⁵⁸ It identified freedom of scientific research (i.e. academic freedom) as a common value and indicated shared priority areas where member states will jointly develop common priority actions. The Council is currently developing new priorities for the ERA, and in this respect is considering launching a measure to protect academic freedom in Europe. This will be achieved through the development of an action plan based on the Bonn Declaration, monitoring academic freedom in Europe, and support for higher education organisations and research-performing organisations in recognising and dealing with foreign interference. Several countries point to the potential for incorporating the Academic Freedom Index (AFI)⁵⁹ as a source of data for measuring performance in relation to the ERA priorities in the future. The European Higher Education Area (EHEA) and the underlying Bologna Process are assessing how they can use the Academic Freedom Index. It contains indicators for the freedom of academic exchange and dissemination, and the freedom to research and teach, among other things. Some EU countries, such as France and Austria, have shown particular interest in this index. The Commission encourages research-performing organisations to consult the index when they want to identify countries and partner institutions where academic freedom is at risk.⁶⁰

The EEA and Norway Grants schemes

Through the European Economic Area (EEA) and Norway Grants schemes, Norway contributes to

reducing social and economic disparities in a number of EU countries with weaker economies. The Ministry of Foreign Affairs is responsible for these schemes in Norway. In countries such as Poland and Hungary, political developments involving growing government interference in the rule of law, the press and research communities are putting pressure on public discourse and academic freedom. Norway is considering priorities that might strengthen human rights, the rule of law and democracy in the next programme period.

Advocacy organisations for higher education and research

Many pan-European and global advocacy organisations have issued so-called «position statements on academic freedom» in connection with incidents in individual countries or various initiatives from the Commission. In its university strategy for 2030, the European University Association (EUA) calls for universities to «uphold academic freedom, which is the freedom of thought and inquiry for the academic community to advance knowledge and the freedom to communicate this knowledge based on accepted standards of academic ethics and integrity». Universities must work with the communities around them, participate in public debates and address major societal challenges.

The Guild, a network that brings together the research-intensive universities in Europe, has also issued a number of statements on academic freedom. In the latest statement following the Bonn Declaration, they call for the creation of a European Ombudsperson for the defence and support of academic freedom.⁶¹ The League of Research Universities of Europe (LERU), the Young European Research Universities Network (YERUN) and the European Consortium of Innovative Universities (ECIU), which collectively represent the innovative universities, have not been particularly vocal on the issue of ensuring academic freedom. CESAER, which unites the universities of science and technology in Europe and beyond, refers to a number of key documents on research integrity, academic freedom and institutional autonomy, evidence-based policy development and knowledge sharing.

⁵⁸ Pact for Research and Innovation in Europe (2021) https://ec.europa.eu/info/sites/default/files/research_and_innovation/strategy_on_research_and_innovation/documents/ec_rtd_pact-for-research-and-innovation.pdf

⁵⁹ Katrin Kinzelbach, Staffan I. Lindberg, Lars Pelke, and Janika Spannagel. 2022. Academic Freedom Index 2022 Update. FAU Erlangen-Nuremberg and V-Dem Institute. DOI: 10.25593/opus4-fau-18612. This report reviews the state of academic freedom in the world by, among other things, measuring institutional autonomy, freedom of academic exchange and dissemination, freedom to research and teach, academics as critics, campus integrity, etc. <https://www.pol.phil.fau.eu/files/2022/03/afi-update-2022.pdf>

⁶⁰ European Commission, Directorate-General for Research and Innovation, Tackling R&I foreign interference: staff working document, 2022 <https://data.europa.eu/doi/10.2777/513746>

⁶¹ The Guild of European Research-Intensive Universities: The Guild Statement on Academic Freedom (June 2021) <https://www.the-guild.eu/news/2021/the-guild-statement-on-academic-freedom-june-2021.pdf>

The International Science Council (ISC) is a non-governmental organisation that brings together international scientific unions, associations, institutions and research councils with the aim of promoting science as a global public good. They have published a discussion paper titled *The free and responsible practice of science in the 21st century*,⁶² which examines scientific freedom and responsibility in a modern society, addresses challenges, and proposes a number of measures. The measures include advice to researchers when communicating about research, the institutions' responsibility to promote dissemination, support and protect researchers, and the authorities' duty to create an enabling environment for the free and responsible practice of science.

These advocacy organisations give the Norwegian institutions a stronger voice in policy making and debate in Europe. In this way, they can do important advocacy work in arenas where the Norwegian authorities do not have influence.

The Nordic region

Several Nordic countries are working on topics such as disinformation, radicalisation and alienation across educational levels in their national policies. The goal is to build greater understanding of democracy and active citizenship. The framework conditions for communicating as an academic have been the subject of debate in several Nordic countries, particularly in the wake of the COVID-19 pandemic and in relation to research on controversial topics.

4.5 Human rights violations: the SAR and StAR schemes

Around the world,⁶³ researchers, educators and students in a number of countries with authoritarian regimes risk or are subject to intimidation, persecution, torture, wrongful deportation, prosecution or imprisonment by their own state. Their

⁶² The free and responsible practice of science in the 21st century <https://stories.council.science/science-freedom-responsibility/>

situation is serious, but relates more generally to the human rights situation in these countries, as opposed to academic freedom of expression in particular. Norway is nevertheless affected by the conditions for academic freedom in other countries. We depend on foreign research results being reliable, and many researchers in Norway collaborate with researchers in countries with challenging regimes. The fact that researchers in some other countries do not have academic freedom entails a risk for research in Norway, since we cannot be certain that the findings are not politically motivated. Norway accepts some of these vulnerable academics and students who are in countries that may qualify for official assistance through the international Scholars at Risk (SAR)⁶⁴ scheme and the Norwegian Students at Risk (StAR)⁶⁵ scheme. These individuals are given the opportunity to continue their research or studies and finish their degree at Norwegian universities and university colleges. The schemes also help Norwegian institutions gain a broader perspective on the situation in other countries. Scholars at Risk encourages universities and university colleges to invite the persecuted researchers and students to speak on campus. The most important channel for disseminating research is through education and teaching, and encounters with SAR colleagues or StAR students adds invaluable content to the students' learning.⁶⁶ We have a responsibility to act in solidarity to promote academic freedom and support persecuted students and researchers.

⁶³ Scholars at Risk's Academic Freedom Monitoring Project investigates and reports attacks on higher education with the aim of raising awareness, generating advocacy, and increasing protection for scholars, students, and academic communities. <https://www.scholarsatrisk.org/academic-freedom-monitoring-project-index/>

⁶⁴ Scholars at Risk | Protecting scholars and the freedom to think, question, and share ideas <https://www.scholarsatrisk.org/>

⁶⁵ The StAR scheme was initiated by the Norwegian Students' and Academics' International Assistance Fund (SAIH) and the National Union of Students in Norway (NSO) in 2012. To date, 52 student activists have come to Norway. Germany and Poland have also established StAR programmes. <https://www.studentsatrisk.no/about>

⁶⁶ Summarised from the 10th anniversary conference for Scholars at Risk, University of Oslo, 21 September 2021.

Chapter 5

Current framework

5.1 Regulations

5.1.1 The Constitution and human rights

Academic freedom of expression is one application of the general freedom of expression. Freedom of expression is protected in the Norwegian Constitution and in several international human rights conventions by which Norway is bound. The convention that has the greatest practical impact on Norwegian law is the European Convention on Human Rights (ECHR).¹

The Norwegian Supreme Court has stressed that «freedom of expression, as expressed in Article 100 (1) of the Norwegian Constitution and Article 10 (1) of the European Convention on Human Rights, provides a very broad framework for what academic employees can say about academic and administrative issues, even if this involves contradicting their superiors or others. The free exchange of academic ideas and information is a fundamental principle and a prerequisite for universities and university colleges to be able to fulfil their mission in a democratic society.»²

Article 100 of the Norwegian Constitution reads:

There shall be freedom of expression.

No one may be held liable in law for having imparted or received information, ideas or messages unless this can be justified in relation to the grounds for freedom of expression, which are the seeking of truth, the promotion of democracy and the individual's freedom to form opinions. Such legal liability shall be prescribed by law.

Everyone shall be free to speak their mind frankly on the administration of the State and on any other subject whatsoever. Clearly defined limitations to this right may only be imposed when particularly weighty considerations so justify in relation to the grounds for freedom of expression.

Prior censorship and other preventive measures may not be applied unless so required in order to protect children and young persons from the harmful influence of moving pictures. Censorship of letters may only be imposed in institutions.

Everyone has a right of access to documents of the State and municipalities and a right to follow the proceedings of the courts and democratically elected bodies. Limitations to this right may be prescribed by law to protect the privacy of the individual or for other weighty reasons.

The authorities of the state shall create conditions that facilitate open and enlightened public discourse.

The protection pursuant to Article 100 of the Constitution applies to all expressions, in all contexts. As stated in the second paragraph, the grounds for this freedom are «the seeking of truth, the promotion of democracy and the individual's freedom to form opinions». Since the purpose of academic freedom of expression is to contribute to the seeking of truth, this way of using freedom of expression clearly enjoys special protection, even if the phrase «academic» is not mentioned explicitly in the provision.³

The Constitution is the supreme source of law in Norway, ranking above all other ordinary laws. The rights enshrined in the Constitution thus have a particularly strong protection. The thresh-

¹ Act relating to the strengthening of the status of human rights in Norwegian law (the Human Rights Act) – Annex 2. The European Convention on Human Rights with Protocols (Norwegian translation) https://lovdata.no/dokument/NL/lov/1999-05-21-30/KAPITTEL_2#KAPITTEL_2

² Norwegian Supreme Court Report (Rt.) 2011 p. 1011. <https://lovdata.no/dokument/HRSIV/avgjorelse/hr-2011-1314-u>

³ For an overview of the constitutional and human rights protections for academic freedom of expression, see Strømme, Vidar (2020). *Ytringsfrihet i akademia* [Freedom of expression in academia], Institute for Social Research (ISF) Report 2020:14 <https://hdl.handle.net/11250/2719456>

old is very high for interference with these rights to be lawful.

Academic expressions are also protected by the provision on freedom of expression in Article 10 of the European Convention on Human Rights.

It reads:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Although Article 10 of the European Convention on Human Rights does not specifically mention «academic» freedom of expression, academic expressions are protected under this provision. The European Convention on Human Rights is one of the conventions that, pursuant to the Norwegian Human Rights Act, shall take precedence over any other legislative provisions that conflict with them. This means that rights provided by the European Convention on Human Rights also have strong protection in Norwegian law.

The legal relationship between Article 100 of the Norwegian Constitution and Article 10 of the European Convention on Human Rights has not been methodically clarified.⁴ The Supreme Court of Norway uses these two provisions slightly interchangeably. Where there are previous judgments that elaborate on the contents of Article 100 of the Constitution, reference is often made to them. However, reference is more often made to the assessment criteria in judgments from the European Court of Human Rights.⁵ This is because the European Court of Human Rights has dealt with more freedom of expression cases than the Supreme Court of Norway, and that the judg-

ments from the former thus provide the most tangible guidance on how to resolve specific legal issues.

For the Commission's purposes, it is important to emphasise that both Article 100 of the Norwegian Constitution and Article 10 of the European Convention on Human Rights provide strong legislative protection for academic expressions. When assessing whether or not an instance of interference with academic freedom of expression is lawful or not, it is the provision that provides the clearest protection in practice that will be used. The protection of rights pursuant to the European Convention on Human Rights is assumed to constitute minimum protection. This means that the constitutional protection is at any rate not inferior to the protection provided by the European Convention on Human Rights. It is therefore the best protection that can be derived from either the European Convention on Human Rights or the Norwegian Constitution that determines the legal protection of the academic freedom of expression in practice.

Academic, truth-seeking and power-critical expressions are at the core of the protection of the freedom of expression that both provisions provide. This means that these kinds of expression enjoy strong protection. It also means that in some cases academic expressions have stronger protection than they would have if they had been made for purposes other than seeking the truth and in contexts other than academic ones. The Commission will now present some examples to illustrate this point:

⁴ A number of the human rights that were incorporated into the Norwegian Constitution in 2014 must be interpreted in light of their international precedents (where relevant), in line with the principle set out in Norwegian Supreme Court Report (Rt.) 2015 p. 93 (57). Article 100 of the Norwegian Constitution was amended in 2004. One of the reasons for the amendment was to enable better protection of freedom of expression that also ensued from Article 10 of the European Convention on Human Rights. However, this provision is structured differently to Article 10 of the European Convention on Human Rights, and was not formulated on the basis of it. The Supreme Court has dealt with how the two norms relate to one another in different ways.

⁵ Only two out of 24 cases concerning freedom of expression were settled on the basis of Article 100 of the Constitution after the provision was amended to have its current wording in the years 2004–2012, see A. Kierulf, *Hvilken rolle spiller Grunnloven § 100 i Høyesteretts yringsfrihetspraksis?* [What role does Article 100 of the Constitution play in the Supreme Court's free speech practice?] *Lov og Rett* (2012) p. 131. This tendency has continued. Based on the same methodology, the Supreme Court used Article 100 of the Constitution in its decision in only three or four out of 22 cases pertaining to freedom of expression in the years 2013–2021.

Harsh attacks on research projects, which in other contexts might be defamatory, may be legal in debates where the general background entails the questioning of the underlying science.⁶

In the 1970s, a psychology student and an assistant professor initiated a behavioural therapeutic treatment programme for an 11-year-old. They subsequently published an article about the treatment. It was heavily criticised in the Norwegian daily newspaper *Dagbladet*, which, among other things, claimed that they had carried out torture in the name of science. The assistant professor sued the critic for defamation. The Supreme Court stressed that the rules on defamation must be applied with caution in a debate where the general background entails the questioning of the underlying science, and it must be possible to use strong words when discussing scientific works.

Erroneous hypotheses and assertions are central to the pursuit of truth. The publication of erroneous assertions that might have been defamatory or resulted in tortious market interference in another context may be protected if they are a component of research or academic pursuit of truth. The same also applies if the researcher who made the assertions is not affiliated with any academic institution. This is exemplified in the case *Hertel v. Switzerland*.⁷

A Swiss researcher studied the negative effects of microwave ovens in his private laboratory. He sent a research report on his study to a journal, in which he concluded that microwave ovens had very harmful effects on human health. (He claimed that microwaves poison water, resulting in a form of cytotoxin, were harmful to the eyes and lungs, create lasting microwaves inside the body after consumption of microwaved food, and can lead to a heightened risk of rheumatism, anaemia and high cholesterol). The journal sensationalised the findings, publishing an article accompanied by a picture of the grim reaper. The publication resulted in a marked drop in sales of microwave ovens in the Swiss market, and the researcher and the journal were sued. Citing the Federal Unfair Competition Act, the Swiss courts

prohibited from them making similar allegations about microwave ovens in public in the future.

The European Court of Human Rights ruled that this was a violation of the researcher's freedom of expression. The European Court of Human Rights stated that it was not up to the judiciary to censor research findings, regardless of whether they were poorly underpinned or went too far. Rather, the refutation of these kinds of allegations belonged in the public debate.

The researcher's intention, which was scientific inquiry (as opposed to, for example, competing activities) was probably central to the European Court of Human Rights' assessment.⁸

The fact that the scientific *intention* behind expressions can be decisive for their legal protection is also underlined in the European Court of Human Rights case *Aksu v. Turkey*.⁹ In this case, it was concluded that stigmatising statements that may be unlawful if they had been made with the intention of demeaning or discriminating may be protected if they are part of an academic presentation, with a truth-seeking intention:

In a book funded by the Turkish Ministry of Culture, a professor described the way of life of the Roma minority in Turkey. A Turkish citizen with a Roma background reacted to certain passages in the book. Among these was a passage stating that Gypsies were engaged in illegal activities, and lived as «thieves, pickpockets, swindlers, robbers, usurers, beggars, drug dealers, prostitutes and brothel keepers» and were «polygamist and aggressive». He tried, unsuccessfully, to have the book stopped in the national courts.

The European Court of Human Rights agreed that negative stereotyping of a minority could be a violation of their privacy if it exceeded a certain threshold of seriousness. However, the applicant's right to «respect for his private life» had to be weighed up specifically against the author's freedom of expression. The European Court of Human Rights held that the Turkish courts' weighting of freedom of expression at the expense of protection of privacy was justifiable, since the book was research-based and the author's intention was to shed light on a stigmatised minority, not to stigmatise the Roma.

⁶ Norwegian Supreme Court Report (Rt.) 1979 p. 727. See also Norwegian Supreme Court Report (Rt.) 1991 p. 1069 (on page 1076), in which by two magazines of a clinic's MS treatment (calling it «deceptive» and «selling illusions») was not deemed to be defamatory, because «there must be widespread freedom of expression in the general public debate on academic and scientific issues».

⁷ *Hertel v. Switzerland* (European Court of Human Rights, 25 August 1998). <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-59366%22%5D%7D>

⁸ Strømme, Vidar (2020). *Ytringsfrihet i akademien* [Freedom of expression in academia]. Institute for Social Research (ISF) Report 2020:14 <https://hdl.handle.net/11250/2719456>

⁹ *Aksu v. Turkey* (European Court of Human Rights, Grand Chamber, 15 March 2012) paragraph 69 et seq. <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-109577%22%5D%7D>

Harsh academic criticism of other colleagues may also have greater protection in an academic setting than in other contexts. This is especially true if the criticism is rooted in a topic, as opposed to only directed at an individual's person. An example of this is the European Court of Human Rights case *Sorguç v. Turkey*.¹⁰

A professor at Istanbul University of Technology criticised the system for examination of assistant professors, arguing that it led to lower quality. In an article voicing this criticism, he referred to a professor, who had been given his position as follows: «[H]e managed to pass the assistant professorship examination before another panel, whose members were not from the construction management department, and without publishing a single article [...]». Turkish courts deemed this an attack on the reputation of the person concerned, because the article insinuated that the professor would not have passed the examination had a different examination model been used and if a different panel had assessed him.

The European Court of Human Rights based its ruling on the assumption that *Sorguç* had written what he did in good faith, and also pointed out that the professor referred to was not mentioned by name. It argued that the unnamed professor had to accept being spoken of in this way: «[T]he Court underlines the importance of academic freedom, which comprises the academics' freedom to express freely their opinion about the institution or system in which they work and freedom to distribute knowledge and truth without restriction.»

The Supreme Court of Norway also adheres to the view that academic freedom of expression includes not only discussion of academic questions, but also the right to criticise institutions and the systems necessary for employees to perform their academic activities.¹¹

However, it is not the case that framing expressions in an academic context provides a *carte blanche*, placing scholars above the law and other considerations, such as, for example, a reasonable working environment.¹² While the threshold is high, in very serious cases, these kinds of considerations may outweigh the interests of academic freedom of expression. This was the case in an instance where the University of Oslo dismissed a

history professor. He had widely distributed e-mails criticising colleagues in connection with the organisation of examinations and also refused to attend meetings, including dialogue meetings with the employer at various levels. He had contributed to a difficult working environment over a long period of time. Even with the very broad latitude that academic staff have to «disagree with the management and others», he also had to duty to «show a certain degree of consideration in his conduct towards his colleagues and others he comes into contact with in his position. He also has a duty to take the working environment into consideration. In the gravest cases, freedom of expression will also have to yield in an arena like this, with the result that expressions that are inappropriate due to their form, time, forum, scope or harmful effects may provide grounds for dismissal.»

Academic institutions are not allowed to chastise or sanction academics who express themselves as academics on matters outside their areas of expertise.¹³ In a case from 2018, a professor of German was invited to appear on a television programme where the topic of discussion was the relationship between the EU and Turkey. He informed the department management, which decided that it was not appropriate for him to participate in an area outside his own field of expertise. The professor nevertheless took part in the television programme, resulting in a reprimand from the vice dean. The disciplinary board at the university held that even academic staff had to accept some guidelines for television appearances outside their fields of expertise. The European Court of Human Rights determined that this was an infringement of his freedom of expression. Although the reprimand had no major consequences, these kinds of sanctions could have a general chilling effect on the readiness of professors to express themselves publicly. It must also be possible to have this kind of interference with freedom of expression tried in the courts, in order to prevent the university administration from abusing its discretionary powers.

The protection of the freedom of expression in Article 100 of the Norwegian Constitution and Article 10 of the European Convention on Human Rights is essentially a «negative» right. Negative rights define what states cannot do to their citizens – in this case, that they cannot interfere with

¹⁰ *Sorguç v. Turkey* (European Court of Human Rights, 23 June 2009). [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-93161%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-93161%22]})

¹¹ Norwegian Supreme Court Report (Rt.) 2011 p. 1011.

¹² Norwegian Supreme Court Report (Rt.) 2011 p. 1011.

¹³ *Kula v. Turkey* (European Court of Human Rights, 19 June 2018). [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-184289%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-184289%22]})

or cannot place restrictions on their freedom of expression and information.

However, both provisions also imply a «positive» right. Positive rights define what states must do for their citizens. In this case, the positive right entails an obligation for the state to create conditions that facilitate freedom of expression and information in practice.¹⁴

The positive obligations are not mentioned in Article 10 of the European Convention on Human Rights, but have been clarified through the legal practice of the European Court of Human Rights.¹⁵ This duty is laid down in Article 100 (6) of the Norwegian Constitution: «The authorities of the state shall create conditions that facilitate open and enlightened public discourse.» The «authorities of the state» shall be understood broadly to include everyone who administers and exercises public authority. The positive obligation means that the state shall create conditions that facilitate freedom of expression and information in general, but also academic freedom of expression in particular (cf. the formulation «enlightened»). This means that managers in academic institutions that administer public authority also have a duty to create conditions that facilitate freedom of expression and information.

The more detailed content of the positive obligation can be elaborated in legislation or other regulations and can entail obligations for private legal entities, as well as public ones. An example of this is section 1-1 (c) of the Working Environment Act, which stipulates that one of the purposes of the Act is to facilitate a good climate of expression in the undertaking. The Universities and University Colleges Act also contains rules that supplement the duty to promote and safeguard freedom of expression and information, e.g. in the purpose of the Act in section 1-1, the duties ascribed to institutions in section 1-3, and in the specification of the institutional and individual freedoms and responsibilities in section 1-5. The Commission's proposed amendments to section 1-5 (see section 7.2.2) are intended to contribute to the further realisation of Article 100 (6) of the Norwegian Constitution in academia.

5.1.2 The Universities and University Colleges Act

Act no. 15 of 1 April 2005 relating to universities and university colleges applies to all universities and university colleges that provide educational programmes accredited by the Norwegian Agency for Quality Assurance in Education (NOKUT); see section 1-2 for a more detailed delimitation of the scope of application of the Act. This Act regulates various aspects of academic freedom. The Commission explains some of the milestones along the way to the current regulation. We will return to some of the points here in our proposed amendments to the Act in section 7.2.2.

The Underdal Commission (Official Norwegian Report (NOU) 2006: 19)

The Underdal Commission¹⁶ was tasked with «... examining whether statutory regulation of individual academic freedom is useful, and how to codify and clarify this freedom in accordance with generally accepted norms and current practice, within the powers that the law assigns to the institution itself».

The Commission's report NOU 2006: 19 *Akademisk frihet [Academic freedom]* with proposals for revision of section 1-5 of the Universities and University Colleges Act was well received and remains an important document in respect of the foundation for academic freedom. The Report includes a separate annex (Annex 1), prepared by the commission member, Professor Johan Giertsen, on academic freedom of expression.

In chapter 6, the Commission concludes by proposing a reformulation of section 1-5 of the Universities and University Colleges Act in order to further clarify this principle and give it a firmer legislative basis. In short, it was proposed that (1) universities and university colleges would be assigned a positive duty to promote and defend academic freedom, including a duty to ensure that academic activities are carried out in accordance with accepted ethical principles, (2) the existing provisions concerning institutional academic autonomy would remain in place, and (3) that academic freedom – understood as the rights and duties of the individual staff members (researchers and teachers) – should be codified.

¹⁴ An elaboration of the positive obligations can be found, among other things, in the Council of Europe's recommendation CM/Rec(2012)7 on the responsibility of public authorities for academic freedom and institutional autonomy. <https://www.refworld.org/pdfid/50697ed62.pdf>

¹⁵ As exemplified in several of the aforementioned European Court of Human Rights' judgments.

¹⁶ Official Norwegian Report (NOU) 2006: 19 *Akademisk frihet [Academic freedom]*

Current section 1-5 of the Universities and University Colleges Act

The current section 1-5 entered into force on 1 January 2008, and was adopted in accordance with the Underdal Commission's proposal that individual academic freedom for staff in teaching and research positions should be codified. The provisions now cover both individual academic freedom and institutional academic freedom (i.e. autonomy). This happened 15 years after institutional academic autonomy was first codified.

The Universities and University Colleges Act Commission – Official Norwegian Report (NOU) 2020: 3

The Universities and University Colleges Act Commission (the Aune Commission) submitted its proposal for a new Universities and University Colleges Act in February 2020 (see NOU 2020: 3 *Ny lov om universiteter og høyskoler [Proposal for a new Act relating to universities and university colleges]*). Chapter 15 of the report discusses academic freedom. The Commission proposed that the content of section 1-5 on academic freedom and responsibility be continued. Furthermore, they proposed a clarification in the first paragraph of the provision to emphasise further that the institutions have a special responsibility to protect the employees' exercise of their academic freedom.

The Commission also discussed the academic freedom of employees in the sector. They pointed out that bullying and intimidation of academic staff who take part in the public debate is a growing problem. The Commission proposed a clarification in the statutory provision on academic freedom, so that the institutions' responsibility to defend the employees' exercise of academic freedom is more clearly elucidated.

The Commission found that the current provision implies that «the institutions' statutory responsibilities include supporting their employees in such situations» (in this context, «such» means when employees are subjected to targeted campaigns, intimidation, harassment, etc.). At the same time, the Commission also accepted that developments in society may provide grounds to emphasise further the responsibility of the institution's management to protect their employees from bullying and intimidation. The Commission also held that the proposal would serve to protect individual employees from being subjected to sanctions from the employer in a situation where the employee has exercised their academic free-

dom of expression and faced reactions that the management finds unpleasant.

The Aune Commission proposed the following additions to section 1-5, first sentence, of the Universities and University Colleges Act: «Universities and university colleges must promote and safeguard academic freedom, *and the employees who exercise it.*»

The Commission received 44 consultative statements on academic freedom in connection with the consultation round for the report. Statements were received from the Norwegian Association of Researchers, the Norwegian National Research Ethics Committees, the National Union of Students in Norway (NSO), and all of the public and private higher education institutions, among others. Fourteen of these stakeholders commented on this point, without stating whether or not they supported the proposal.

Some 28 of the institutions invited to comment supported the Commission's proposed amendments. At the same time, the Ministry was urged to use this opportunity to reflect in depth on the content of the provision.

Among other things, the Norwegian National Research Ethics Committees (FEK) stated that the section provides a statutory basis for various freedoms that are important for the activities of universities and university colleges, such as academic freedom, artistic freedom, freedom of research, academic autonomy and freedom of expression, but that the heading «Academic freedom» does not reflect the breadth of the provision. FEK was of the view that the heading would better match the content if it were changed to «Freedom and responsibilities», for example. Furthermore, they believed that one aspect that is missing from both the current wording and in the proposal from the Universities and University Colleges Act Commission is collegial self-regulation at the institutional level. This is a central element in the traditional understanding of academic freedom, which it might be advantageous to state specifically in this section.

Several of the institutions invited to comment, including the Norwegian Association of Researchers, highlighted the strengthening of academic freedom as a long-overdue measure, drawing particular attention to the addition that the institutions also have a special responsibility to protect and defend their employees' exercise of academic freedom. They pointed out that academic freedom is currently under growing pressure. Making the institutions actively responsible for protecting academic freedom and their employees in their exer-

cising of this will help increase understanding of what academic freedom is and why it is necessary, as well as clarify various challenges and boundaries.

The National Union of Students in Norway (NSO) supported codification of the individual researcher's academic freedom, but noted that all research should adhere to recognised practices and academic standards, regardless of whether the individual concerned is a member of staff or a student, and that students must therefore be mentioned in the text of the Act. The Federation of Norwegian Professional Associations (*Akademikerne*), the Norwegian Civil Service Union (NTL) and the Norwegian Society of Graduate Technical and Scientific Professionals (Tekna) were positive to the proposal.

The Ministry of Education and Research's follow-up – legislative bill Proposition no. 111 to the Storting (2020–2021):

Some of the Aune Commission's proposals were followed up in a legislative bill submitted to the Storting in spring 2021 (see Proposition no. 111 to the Storting (2020–2021))¹⁷. In respect of academic freedom, the Ministry stated, among other things, (section 2.2.1):

The right to academic freedom is enshrined in section 1-5 of the Universities and University Colleges Act. The right of universities and university colleges to self-determination in academic issues, i.e. the institutional dimension of academic freedom, was incorporated into the Universities and University Colleges Act in 1989. Individual academic freedom was codified in 2007. In this bill, we use the term «academic freedom» as a collective term covering both the institutional and individual aspects of academic freedom. [...]

The Ministry agrees with the Aune Commission that the Underdal Commission's understanding and discussion of the fundamental principle of academic freedom still stands strong, even today. The Ministry also agrees with the Aune Commission's proposal to continue the content of section 1-5 of the current Act on academic freedom and responsibilities. The Ministry also agrees that the insti-

tutions have a responsibility to protect the employees' exercise of academic freedom. In the Ministry's opinion, the Commission's proposed clarification does not entail any material changes. The proposal will not provide employees with any stronger protection or impose on the management of an institution a stronger duty to intervene than it has today. Instead, an amendment in line with the proposal may lead to more uncertainty about how far the institutions' responsibilities extend. The Ministry therefore proposes not to implement the Commission's proposals on this point.

Furthermore, the Ministry agrees that there are aspects of current developments in society, particularly in certain countries, that may raise concerns. There are tendencies towards polarisation in the debate about knowledge, and in this context academic freedom, independence, and quality assurance are becoming increasingly important in order to maintain a high level of confidence in research-based knowledge in society. The fundamental values of academia and the statutory provisions that protect academic freedom remain firm, but there is a need to upgrade policies and systems to meet the new era, with new media, new technologies and new challenges. These are questions that the Ministry will continue to work on, including in the preparation of the long-term plan for research and higher education for the period 2023–2032. In this work, the Ministry will appoint an expert group that will be tasked with investigating certain aspects of academic freedom and responsibilities.

The expert group mentioned above is the Commission that is presenting its conclusions in this report.

The Ministry wrote the following about international initiatives in this area:

Individual and institutional academic freedom are also the values highlighted in the Magna Charta Universitatum that was signed by 388 rectors and heads of universities from all over Europe on 18 September 1988, in connection with the 900th anniversary of the University of Bologna. This marked the start of the so-called Bologna process.

In October 2020, Norway signed an international declaration on freedom of research – the Bonn Declaration on Freedom of Scientific Research. This declaration supports academic

¹⁷ Proposition no. 111 to the Storting (2020–2021) – legislative bill: Amendments to the Universities and University Colleges Act, the Act relating to student grants, the Vocational Education Act and the Vocational Qualifications Act, etc.

freedom as a fundamental principle in academia, and states, among other things, that the individual researcher has the freedom to choose the method and topics of their research. By signing this declaration, Norway has committed to actively working to protect academic freedom. In November 2020, the ministers in the Bologna Process adopted a communiqué in which, among other things, they agreed on a common definition of academic freedom for all the countries in the European Higher Education Area (EHEA). A separate statement that further expounds upon academic freedom and problems associated with it was adopted as an annex to the communiqué. Through these decisions, Norway has also committed to promoting and protecting academic freedom.

5.1.3 Other regulations of importance for academic freedom of expression

A number of statutory and regulatory provisions provide constraints and guidelines for academic work, at both the institutional and the individual level. All of these can affect academic freedom in various ways, and thus also academic freedom of expression. In addition to the Universities and University Colleges Act, the Aune Commission mentions

[...] the Regulations on financial management in central government (the Financial Management Regulations), which are laid down by the Ministry of Finance. The closest equivalent in the private sector is the Accounting Act. The institutions' autonomy is further limited by, among others, the Public Administration Act, the Equality and Anti-Discrimination Act, the Research Ethics Act, the Civil Service Act and the Working Environment Act.¹⁸

Any statutory provision that limits the general freedom of expression may also have implications for academic freedom of expression. They may affect both what academic staff and students can lawfully express, and what content there are legal sanctions against, limiting what they can hear or read. Examples of these kinds of limitations include:

- penal provisions that prohibit certain types of statements, such as the prohibition against

- incitement to a criminal act (section 183 of the Penal Code)
- aggravated hate speech (section 185 of the Penal Code)
- threats (sections 263 and 264 of the Penal Code)
- harassing conduct, harassment and stalking (sections 266 and 266 a of the Penal Code)
- violation of privacy (section 267 of the Penal Code)
- sharing of offensive images (sections 267 a and b of the Penal Code)
- liability for defamation (section 3-6a of the Compensatory Damages Act)
- provisions to prevent discrimination and harassment (sections 6 and 13 of the Equality and Anti-Discrimination Act and section 4-3 (3) of the Working Environment Act)
- statutory or contractual obligations regarding confidentiality
- labour law provisions on the employer's right to direct and supervise their workforce and employees' duty of loyalty, the right to report irregularities («whistleblowing») and requirements pertaining to the working environment

Ethical rules also entail constraints for academic freedom of expression in some situations, as we will return to in section 6.3.3.

The Civil Service Act and the Working Environment Act regulate, among other things, the employer's right to direct and supervise their workforce. This may have an impact on the freedoms of academic staff in a number of different ways.

Official Norwegian Report (NOU) 2006: 19 *Academic freedom* contained a proposal for the amendment of section 1-5 of the Universities and University Colleges Act, in part to clarify the relationship between the employer's right to direct and supervise their workforce and individual academic freedom. The cited reason for the amendment was that the provision would be included as part of the framework «for the contractual relationship under labour law between each individual employee and the institution as an employer. The employer's rights as an employer do not entitle him or her to interfere with the employee's exercise of the rights and duties covered by the draft legislation. A situation where an employee does not comply with the instructions of the employer in relation to academic activity which is protected by the law, does not constitute grounds for initiation of sanctions based on the contract of employ-

¹⁸ Official Norwegian Report (NOU) 2020: 3 *Ny lov om universiteter og høyskoler* [Proposal for a new Act relating to universities and university colleges], p. 89.

ment, such as reprimands, transfer, dismissal or discharge, cf. the Civil Service Act for employees in state higher education institutions and the Working Environment Act for employees in private institutions. The employer is also precluded from making use of other, more indirect sanctions, such as entirely or partially excluding an employee from the relevant academic community at the institution, or denying him or her access to the necessary research resources on these grounds. The rights pursuant to the draft legislation may not be waived in individual or collective employment contracts.»¹⁹

As described in section 5.1.1 above, academic expression enjoys very strong protection, also under labour law. «It is undisputed that freedom of expression ought to be greater in academia than for public servants in general. Legislation and Norwegian and international legal practice leave no doubt about that,» writes Vidar Strømme in the ISF report *Ytringsfrihet i akademien [Freedom of speech in academia]*, where current practice is reviewed.²⁰

Here Strømme repeatedly stresses the importance of an expression having been made in an academic context. The fact that the purpose of the expression is the seeking of truth may have an impact on how they must be interpreted, in purely linguistic terms.

Interpretation is a key point for everyone who is to comply with and relate to laws that set limits for what they can express. We will therefore now provide a brief account of interpretation:

All legislation that regulates expressions in some way presupposes two interpretation processes. The first is legal, i.e. it must be established what the rule in the statutory provisions entails. The second is linguistic: since the potentially unlawful deed is an expression, the expression must also be interpreted. The expression will only be unlawful if the interpretation shows that the meaning of the expression is covered by the statutory provision.

The linguistic interpretation must be concrete and must be based on the wording of the expression, as this is understood in accordance with standard linguistic norms. Central starting points for the linguistic interpretation are what the per-

son who said something can reasonably be assumed to have meant, and what a listener can reasonably be assumed to have understood. This, in turn, will depend on the context in which the statement is made, who is voicing an opinion, and who is listening. For example, similar statements made by a stand-up comedian in a comedy club and a serious politician on the main national television news programme will be understood differently.

The purely subjective starting points – the speaker's intention and the listener's perception – are important, but are not in themselves sufficient to establish the meaning of an utterance. Both in actual and legal terms, determining the meaning rests on an objective norm as a general starting point. Threatening a person in a way that is likely to cause serious fear or anxiety is a criminal offence, even if the person who did it «was only joking». Uninformed, but not malicious, use of incorrect gender pronouns is not harassment, even if the person who is mispronounced experiences it as such. The subjective starting points must be viewed in light of the communication situation as a whole. From a legal point of view, the image that is used in this process is how «an ordinary newspaper reader» would reasonably understand the statement, in the specific context.²¹

In addition, a special principle of legal interpretation applies to laws with penal sanctions. This affects the legal interpretation, but also the linguistic interpretation: the principle of legality. In connection with Acts of law, this means that the law must not be interpreted expansively when the state's strongest instrument of power might come into play. If the law is interpreted expansively, there is a risk that actions for which the Storting did not intend to impose punishment will also be punished – and the punishment will lack a legislative basis. When determining whether an expression is punishable, it is the expression itself that is the potentially criminal offence. This means that also in connection with interpreting expressions, care must be taken not to interpret them expansively. If an expression is interpreted as having meanings that were not reasonably explicitly expressed or that are not obvious from the context, there is a risk that a person might be punished for something more unacceptable than they intended and perhaps their choice of words conveyed. The Supreme Court of Norway has stated in several judgments: «no one should risk criminal

¹⁹ Official Norwegian Report (NOU) 2006: 19, chapter 6, p. 43 on the main functions of the proposed provisions in section 1-5

²⁰ Strømme, Vidar (2020). *Ytringsfrihet i akademien [Freedom of expression in academia]*. Institute for Social Research (ISF) Report 2020:14 <https://hdl.handle.net/11250/2719456>

²¹ See, for example, Norwegian Supreme Court Report (Rt.) 2005 p. 1677, paragraph 56

liability due to a statement being assigned a meaning that is not explicitly expressed, if this cannot be derived from the context with a reasonably high level of certainty».²²

5.1.4 Regulations for international collaboration

Norway has had a regulatory framework for export control for a long time.²³ Under the export control system, a range of products, technologies and services may not be exported without an export licence from the Ministry of Foreign Affairs. The regulations can also introduce restrictions on the export of sensitive knowledge (transfer of knowledge) with military applications.

The export control system has two purposes: to ensure that defence-related products, technology and services are only exported from Norway in accordance with Norwegian security and defence policy; and that exports of dual-use items do not contribute to the proliferation of weapons of mass destruction (nuclear, chemical and biological weapons) or their means of delivery. The export control regulations are administered by the Ministry of Foreign Affairs, which has laid down guidelines for Norwegian educational institutions' work on the admission and employment of foreign nationals in subject areas where the transfer of knowledge could contribute to the proliferation of weapons of mass destruction or their means of delivery. The guidelines are intended to help educational institutions ensure that relations with foreign nationals take place within the bounds of the export control system. One such guideline is that the admission of foreign students and the appointment of foreign persons to positions in sensitive disciplines requires particular vigilance and caution. The regulations also apply to collaborative research partnerships and the sharing of information and research results with foreign institutions, in connection with other disclosure of this kind of information, and in connection with participation at or hosting courses and conferences. In this respect, the regulations can come into application and restrict the freedom of expression of students and academic staff, thus also affecting the academic freedom of expression.

²² First in Norwegian Supreme Court Report (Rt.) 2012 p. 536, paragraph 20; most recently in Supreme Court case HR-2020-2133-A, paragraph 27.

²³ Ministry of Foreign Affairs: About Norway's export control system <https://www.regjeringen.no/no/tema/utenriksaker/Eksportkontroll/id754301/>

Norwegian academics, research hubs and industry are increasingly being exposed to attempts to circumvent the export control rules.²⁴ In a report on the authorities' work on export control of strategic goods,²⁵ the Office of the Auditor General of Norway identified significant weaknesses in the authorities' system for export control of defence-related products and dual-use items, including preventive activities in relation to trade and industry and academia. The Export Control Regulations are currently under revision, and a consultation paper from the Ministry of Foreign Affairs on effective ways to monitor the transfer of knowledge is expected in spring 2022. The Ministry of Foreign Affairs has pointed out that the topic raises several dilemmas, and it must be accepted that, in certain circumstances, national security will outweigh academic freedom.²⁶

5.2 The governance system for universities and university colleges including the funding system

5.2.1 Management by objectives and results

The academic staff at universities and university colleges have three main work tasks: research, teaching and dissemination. As a concept, «dissemination» can be interpreted in various ways, ranging from traditional communication of knowledge, i.e. participation in the public debate and helping spread new knowledge, to also encompassing innovation, commercialisation and other interaction with society outside the institution.

Pursuant to section 1-1 of+ the Norwegian Universities and University Colleges Act, the purpose of universities and university colleges is to pursue the following objectives:

- a. provide higher education at a high international level

²⁴ White paper Report no. 35 to the Storting (2020–2021) Eksport av forsvarsmateriell fra Norge i 2020, eksportkontroll og internasjonalt ikke-spredningssamarbeid [Norwegian exports of defence-related products in 2020, export control and international non-proliferation cooperation], chapter 4

²⁵ The Office of the Auditor General of Norway Document 3:4 (2020–2021) <https://www.riksrevisjonen.no/globalassets/rapporter/no-2020-2021/myndighetenes-arbeid-med-eksportkontroll-av-strategiske-varer.pdf>

²⁶ Opening speech at the Industry Seminar 2022 – on strategic export control https://www.regjeringen.no/no/aktuelt/innlegg_eksportkontroll/id2900078/?utm_source=regjeringen.no&utm_medium=email&utm_campaign=nyhetsvarsel20220204-1:20%20PM

- b. conduct research and academic and artistic development work at a high international level
- c. disseminate knowledge of the institution's activities and promote an understanding of the principle of academic freedom and application of scientific and artistic methods and results in the teaching of students, in the institution's own general activity as well as in public administration, in cultural life and in business and industry
- d. contribute to environmentally, socially and economically sustainable development

In the budget proposal for 2022, these objectives have been converted into the following goals for universities and university colleges for inclusion in the system for governance by objectives and results:²⁷

- high quality in education and research
- research and education for welfare, value creation, and adaptation
- good access to education
- an efficient, diverse, and robust higher education sector and research system

There are national governance parameters linked to each of these sectoral goals. These parameters are set out in the Ministry's letter of allocation to the individual institutions.

Many of these parameters are related to teaching (student completion rate, number of graduates, time spent on academic work, international exchanges, etc.). In terms of research, «number of publication points per academic fulltime equivalent» is one such parameter, in addition to «funding from the EU», «income from the Research Council of Norway» and «research in STEM subjects».

Dissemination work is not linked to governance parameters and therefore not captured to a similar degree. Perhaps the closest indicator is the governance parameter «other income from sponsored and commission-based activities ('BOA') per academic fulltime equivalent».

In addition to the national governance parameters, which guide the Ministry in its governance of the institutions, the institutions' results on other parameters related to dissemination and civic engagement are also reported in the annual Status Report on Higher Education in Norway. These parameters also receive some attention in the Ministry's governance of the institutions. In

terms of civic engagement, however, these parameters are linked to commercialisation of research findings (patents, licences).

In other words, the system for governance by objectives and results provides few incentives from the Ministry for the management of the institutions or individual scholars to give particular priority to dissemination work. Dissemination is therefore often largely a personal affair.

Changes to the governance of public universities and university colleges

The white paper Report no. 19 to the Storting (2020–2021) *Styring av statlige universiteter og høyskoler [Governance of public universities and university colleges]* proposed a number of changes to the governance of public universities and university colleges. The overarching national goals were to be continued, but would henceforth apply to the sector as a whole. This means that they will no longer be used to measure the individual institution's performance; instead they will be used to enable the Ministry to monitor that the national objectives are being achieved at the aggregate level.

In view of the goal of more strategic and differentiated governance, the government will discontinue the national governance parameters from 2023. Henceforth, the parameters set by the Ministry in the letters of allocation will be exclusively related to the goals set out in the individual institution's development agreement. This will better adapt the Ministry's governance to the profile and prerequisites of the individual institutions.

The Ministry will still require the institutions to report on how they have contributed to the achievement of the national objectives for the sector as a whole.

Development agreements

Development agreements were gradually introduced in three rounds in the period 2016–2018. A development agreement is a written, non-binding agreement between the Ministry of Education and Research and an individual public higher education institution, in which the parties agree on a set of goals and objectives for the next three or four years.

The purpose of the development agreements is to contribute to high quality and a diverse sector through clear institutional profiles and better division of labour. Diversity can enhance mobility, collaboration and the division of labour among the

²⁷ Proposition no. 1 to the Storting (2021–2022) budget proposal for the *Ministry of Education and Research*

institutions and contribute to renewal and adaptation in the sector. Variety and diversity are also a manifestation of the regional differences in needs for knowledge and expertise in the labour market and trade and industry. More differentiated governance will help safeguard and develop the individual institution's civic mission related to the regional and local needs. Furthermore, the development agreements are intended to provide a clearer framework for dealing with specific challenges, both for the sector as a whole and for the individual institution. The agreements will form the starting point for the governance meetings between the Ministry and the individual institution.

The development goals and parameters for the individual institution are formulated on the basis of the need for development or change within a specified period of time. The development goals will therefore not always cover the full breadth of the institution's current activities. However, the goals should describe the desired state or outcome in areas that the institution has a real opportunity to influence. The goals must be long-term, with an initial period of four years, although they may also have a longer horizon.

The current development agreements apply until the end of 2022, and revised development agreements will be drawn up for the period 2023–2026 for all the public institutions. The development agreements will be finally determined by the Ministry in the letter of allocation for 2023.

5.2.2 Funding – the higher education sector

The financial parameters for the higher education sector are decisive for all aspects of academic work. In this section, we describe the current funding system for universities and university colleges in Norway. The institute sector and the health trusts also have funding systems that are partially based on performance and academic publication.

Universities and university colleges are funded through block funding. On average (2022), the block grant for the sector consists of 66 per cent basic funding and 34 per cent performance-dependent funding. There is variation among the institutions. The block grant awarded to each institution is determined on the basis of the allocation for the previous year's balanced budget, with the necessary changes added (e.g. based on number of student places, number of PhD candidates). The performance-based score, i.e. that part of the allocation that depends on how well the individual

universities and university colleges do on eight quantitative indicators, has both an open and a closed budget framework. Within the open budget framework, the better institutions do on these indicators, the more funding is given to the sector. For the indicators with a closed budget framework, the allocation to the sector does not increase, even if the institutions achieve better results; instead the available funding is distributed among the institutions according to their results. In other words, closed budget framework is a zero-sum game where the individual institution's score is relative to that of others (see the share of the total allocation) in terms of:

- number of ECTS credits (open budget framework): 22.5% of the total allocation
- number of exchange students, including Erasmus+ students (open budget framework): 0.2%
- number of graduates (open budget framework): 5.4%
- number of doctoral candidates (open budget framework): 1.7%
- funding from the EU (closed budget framework): 1.4%
- funding from the Research Council of Norway and regional research funds (closed budget framework): 0.8%
- income from activities funded by grants and commissions, so-called sponsored and commission-based activity («BOA») (closed budget framework): 0.8%
- academic publication (publication points) (closed budget framework): 1.5%

The Ministry urges the institutions not to «simply follow the national funding system», but rather to create their own internal system. Nevertheless, many institutions largely follow the national system.

Higher production of ECTS credits and higher numbers of graduates thus provide the greatest opportunity for an increased budget framework for the individual institution.

The research incentives are fairly limited. The funds linked to research are distributed among the institutions within a closed budget framework: and no more money is allocated to the sector as a whole, even if there are increases in the results for these parameters at the aggregate level. Despite this, there is a considerable focus on the indicator for academic publication in particular, from the institutions and individual scholars alike. This is because the publication indicator is also used to measure quality and scholarly merit. The Ministry also pay a great deal of attention to this indicator.

This focus starts with the management of the institutions, and then trickles down through the system. Some institutions also use the indicator in the institution's internal funding distribution system, further reinforcing the importance attached to it. Career-oriented academic staff are also focused on this indicator as a measure of their academic merit, as publishing is regarded as a «make or break» factor in connection with recruitment to academic positions.

There is no indicator in the current funding system for dissemination activities. The closest indicator that addresses contributions to society as a whole is income from sponsored and commission-based activities («BOA»), i.e. activities where society is willing to pay for knowledge development.

A dissemination indicator has been considered – and rejected – several times

In the 2004 budget, the then Ministry of Education and Research announced that it wanted a performance indicator for dissemination, and asked Universities Norway to appoint a committee to look into this. The committee was to elucidate the concept of dissemination and propose relevant indicators. The committee's report was submitted in June 2005.²⁸

The Ministry held that some of the proposed indicators would be difficult to operationalise, and a new committee was therefore appointed, which submitted its report in spring 2006²⁹ (the Dissemination Committee II). Both committees used the following definition of dissemination as their point of departure:

Dissemination is defined as the transmission of information about academic results, working methods and attitudes by academic staff from a field of research out to the general public and/or users for the purpose of transfer of knowledge and insight. In this context, «users» refers to delimited groups that require the

knowledge and technology in the practice of their occupation or profession, and institutions, organisations and others that can be equated with these.

The Dissemination Committee II proposed indicators related to

- revenues (external income)
- innovation (establishment of businesses, licences, student projects)
- publications (books, teaching materials, academic resources, articles in journals, insight articles)
- lectures and presentations at user-oriented conferences
- media and direct dissemination (public events and mass media)

In 2006, the Ministry of Education and Research appointed an expert group (the Vagstad Commission)³⁰ to look at the funding system for the higher education sector from a theoretical perspective. In the report published in May 2007, the expert group wrote:

... we recommend that no separate dissemination component be introduced in the funding model for the higher education sector. We believe that there are far simpler and more cost-effective ways to incentivise dissemination activities.

The rationale behind this conclusion was:

- uncertainty about whether the dissemination parameters proposed by the Dissemination Committee II would in fact stimulate the desired dissemination activities (many indicators – focus on the «simplest»)
- the additional work and reporting this would entail for the institutions and for the individual researcher (including manual registration)
- dissemination is more heterogeneous than research and communication of research findings
- dissemination work is difficult to quantify and verify (quality assurance)

In the white paper Report no. 7 to the Storting (2007–2008) *Statusrapport for Kvalitetsreformen i*

²⁸ Sammen om kunnskap – Nytt system for formidling av kunnskap [Sharing knowledge – New system for dissemination of knowledge] (2005). Report from a working group under Universities Norway <https://docplayer.me/340212-Sammen-om-kunnskap-nytt-system-for-dokumentasjon-av-formidling.html>

²⁹ Sammen om kunnskap II – Operasjonalisering av indikatorer for formidling [Sharing knowledge II – Operationalisation of indicators for dissemination] (2006). Report from a working group under Universities Norway https://www.regjeringen.no/globalassets/upload/kilde/kd/hdk/2006/0010/ddd/pdfv/288717-sdg-sammen_om_ku.pdf

³⁰ Finansieringssystemet for universitets- og høyskolesektoren – teoretiske vurderinger [Funding system for the university and university college sector – theoretical assessments] (2007). A report prepared by Steinar Vagstad et al. on commission from the Ministry of Education and Research

høgre utdanning [Status report on the Quality Reform in higher education], the Ministry of Education and Research concluded:

The Ministry is not proposing to introduce a separate component for dissemination in the funding system at the present time. However, the Ministry will work to improve the basis for statistics and performance indicators and will reconsider a dissemination component in the funding system at a later opportunity.

The question of a dissemination component was also raised in the Hægeland report (2015) *Finansiering for kvalitet, mangfold og samspill [Funding for quality, diversity and interaction]*.³¹ This commission also looked at the funding system for universities and university colleges. The Hægeland Commission was more concerned with interaction with other actors and value creation in their discussion of dissemination, but they too concluded that it was not pertinent to introduce a dissemination indicator. However, it was this commission that proposed the introduction of development agreements, as described in section 5.3.1. The Commission proposed that 5 per cent of the total budget framework should be linked to these agreements. Development agreements have since been introduced, but without budget funding being attached to them.

In 2007, Universities Norway also had a committee that looked at dissemination indicators for artistic development work.³² This committee concluded that it would be extremely demanding (and academically inadvisable) to develop good indicators of this kind of work for use in the funding system.

In 2016, the Nordic Institute for Studies in Innovation, Research and Education (NIFU) was commissioned to assess a dissemination indicator for peer-reviewed dissemination.³³ They concluded that researchers' dissemination activities are seldom subject to peer review (with the possible exception of the publication of books, where the reviewer is usually paid). The funding system

ought therefore not to use peer-reviewed dissemination as a delimiting factor.

In the 2017 budget, a number of adjustments were made to the funding system for universities and university colleges. A new indicator relating to income from sponsored and commission-based activities («BOA») was introduced within the performance-based redistribution part of the budget system. The argument for introducing this indicator was related to the institutions' civic mission (cf. Proposition no. 1 to the Storting (2016–2017)):

In order to fulfil their civic mission, universities and university colleges must collaborate closely with society and industry. This collaboration is crucial for innovation, development and value creation and to address the major challenges facing society today. The government is introducing a new indicator for income from sponsored and commission-based activities (BOA income) to stimulate institutions to develop their civic role and promote contact with society and industry.

In autumn 2021, the Ministry of Education and Research appointed an expert commission to undertake a comprehensive review of the funding of universities and university colleges, as part of its follow-up of the white paper Report no. 19 to the Storting (2020–2021) *Styring av statlige universiteter og høyskoler [Governance of public universities and university colleges]*.³⁴ This commission's deadline for submitting the report was 15 March 2022.

5.2.3 Reporting of dissemination activities

Cristin (Current research information system in Norway) is a national research information system that is currently organised under the Directorate for Higher Education and Skills (HK-dir).³⁵ Cristin has the following functions:

³¹ *Finansiering for kvalitet, mangfold og samspill [Funding for quality, diversity and interaction]*. (2015) Universities Norway https://www.regjeringen.no/globalassets/upload/kilde/kd/hdk/2006/0010/ddd/pdfv/288717-sdg-sammen_om_ku.pdf

³² *Vekt på kunstnerisk utviklingsarbeid (KU) [Focus on artistic development work]*. (2006) UHR https://www.uhr.no/_f/p1/ia142b8ca-1a99-4d01-8b2a-15209ae9080f/vekt_paa_kunst.pdf

³³ Sivertsen, G.; Løver, N.; Mæsel, E.S.; Tømte, C. *Læremidler og formidling i høyere utdanning*. En evaluering av tilskuddsordningen og en vurdering av insentivene [Teaching aids and dissemination in higher education. An evaluation of the grant scheme and an assessment of the incentives]. Nordic Institute for Studies in Innovation, Research and Education (NIFU) report 2016:18 <https://nifu.brage.unit.no/nifu-xmlui/handle/11250/2394382>

³⁴ The Commission on the Funding of Universities and University Colleges was appointed on 9 September 2021 and submitted its report on 17 March 2022.

³⁵ Current Research Information System: <https://www.cristin.no/>

- collect information about Norwegian research and make it available to other users
- simplify research-administrative tasks by facilitating the reuse of research information
- follow up the reporting of academic publications to the Ministry of Education and Research and the Ministry of Health and Care Services (reporting to the Norwegian Scientific Index – NVI)

Institutions that receive part of their funding through performance-based redistribution of the basic funding must report their academic publications each year. Cristin receives the reports and processes the data. The data are then used by the Directorate for Higher Education and Skills – HK-dir (for universities and university colleges), the Research Council of Norway – NFR (for the research institutes), and the Nordic Institute for Studies in Innovation, Research and Education – NIFU (for the health trusts), which in turn generate data that are used as the starting point for the funding of the various research institutions. The ministries and the Research Council of Norway then use this material in their allocation of funding.

The Norwegian Register for Scientific Journals, Series and Publishers is operated by the Directorate for Higher Education and Skills (HK-dir) in collaboration with the National Board of Scholarly Publishing (NPU), on commission from the Ministry of Education and Research. The publication channels are the basis for the publication indicator³⁶ used in the funding systems for higher education institutions, research institutes and health trusts. The National Board of Scholarly Publishing (NPU) is responsible for the academic aspects and approves publication channels and their level (level 1 or level 2), based on proposals from the discipline-specific strategic units (approx. 80) in Universities Norway.

Cristin is more than a database of academic publications. Reports, lectures, interview participation, textbooks, etc. can also be registered. Some institutions have arrangements for internal rewarding of research dissemination activities that are not included in the reporting to the Norwegian Scientific Index (NVI).

The main categories for reporting of dissemination activities are (with the number of subcategories in brackets):

- Journal publication (13)
- Conference contribution and academic presentation (4)
- Book (9)
- Report, thesis, dissertation (8)
- Part of book or report (7)
- Translation work (2)
- Media contribution (4)
- Artistic and museum presentation (5)
- Artistic work (6)
- Product (8)
- Information materials (4)

The reporting in Cristin beyond information needed for registration in the Norwegian Scientific Index (NVI) is probably inadequate. Since academic staff do not receive any recognition for this kind of work, and because registration is time-consuming, many do not prioritise this.

The inadequate and imprecise reporting of the institutions' dissemination activities is something of a paradox in light of the fact that Norway is among the countries with the best and most detailed reporting of educational and research data in the world (cf. section 5.5). This is probably partly due to the fact that greater importance has been attached to educational and research activities than dissemination activities in general, but also that educational and research activities are components in the funding system. When financial incentives are tied to activities, precise and quality-assured data are essential.

5.3 Position structure and career paths today

The position structure in the higher education sector in Norway is hierarchical, with defined career paths that are subject to meritocratic criteria for promotion, i.e. positions are allocated on the basis of intellectual abilities and capacity. There are currently two main career tracks in the higher education sector. As a general rule, the «*professor*» professorship track runs from PhD candidate («*stipendiat*») via postdoctoral fellow («*postdoktor*») and/or associate professor («*førsteamanuensis*») to professor. The «*dosent*» professorship track generally runs from university college lecturer («*høgskolelærer*»), via assistant professor at a university college («*høgskolelektor*») or assistant professor at a university («*universitetslektor*»), then associate professor («*førstelektor*») to «*dosent*» professor («*dosent*»).³⁷ The «*dosent*» professorship track is

³⁶ The Directorate for Higher Education and Skills (HK-dir) is responsible for the Norwegian Publication Indicator. <https://npi.hkdir.no/>

more closely linked to development work and pedagogical activities than the «*professor*» professorship track, which is generally linked to the individual's research merit score. Nowadays, the «*dosent*» professorship track is less commonly used, although people are still being appointed to assistant professor («*lektor*») and associate professor («*førstelektor*») positions, especially in the programmes of professional study. In addition to these two tracks, people are also employed in purely research positions, which are often temporary or «fixed term» and often in connection with externally funded projects.

The requirements for the various academic positions, i.e. university college lecturer («*høy-skolelærer*»), assistant professor at a university college («*høgskolelektor*»), assistant professor at a university («*universitetslektor*»), associate professor «*førstelektor*»), associate professor («*førsteamanuensis*»), «*dosent*» professor («*dosent*») and professor («*professor*») are regulated by the Regulations concerning appointment and promotion to teaching and research posts.³⁸ These are general criteria for employment in teaching and research positions at the institutions covered by the Universities and University Colleges Act. In addition to these general requirements, the institutions can establish their own requirements for the individual type of position. People employed in academic positions can apply for promotion.

The assessment for appointment to academic positions has generally been based on research results, especially in the «*professor*» professorship track. More recently, however, and as a result of the white paper «Quality culture in higher education»³⁹, greater importance has been attached to teaching qualifications. Since 2018, this has also been stipulated in the Regulations concerning appointment and promotion to teaching and research posts, in section 1-2 (3) and section 1-4 (3) on the positions of professor and associate professor.

Over the past decade, various international actors have identified a need to make changes to the merit ranking and evaluation systems for researchers. The international San Francisco Declaration on Research Assessment (DORA) was launched in 2012. In Norway, this is supported by the Research Council of Norway, among others.⁴⁰ The declaration contains a set of recommendations on good practices for measuring the quality of research, stressing that factors other than Journal Impact Factor alone should be used in assessments in connection with funding, appointment or promotion. The EU has developed a framework for evaluating research careers that fully acknowledges the transition to Open Science practices. The Open Science Career Assessment Matrix (OS-CAM) provides a range of possible evaluation criteria, including knowledge exchange with partners outside academia. In Norway, Universities Norway has followed up this initiative and has prepared a guide for recognition and rewards in academic careers (NOR-CAM), inspired by OS-CAM.⁴¹ The European Commission recently issued a call for applications to form a coalition that will work on reforming research assessment, where also the manner in which researchers are assessed is to be improved.⁴² The Commission does not know whether these initiatives have led or will lead to actual changes in assessment for appointment and/or promotion. To the best of the Commission's knowledge, nor have the authorities attached importance to incentives, results or plans to increase dissemination activity at universities and university colleges, such as through their governance of underlying agencies and reporting requirements.

The framework for the positions of PhD candidate («*stipendiat*») and post-doctoral research fellow («*postdoktor*») is laid down in the Regulations concerning terms and conditions of employment for the posts of *postdoktor* (post-doctoral research fellow), *stipendiat* (PhD candidate), *vitenskapelig assistent* (research assistant) and *spesialistkandi-*

³⁷ Frølich, N et al.: *Attraktive akademiske karrierer? Søkning, rekruttering og mobilitet i UH-sektoren* [Attractive academic careers? Application, recruitment and mobility in the higher education sector]. Nordic Institute for Studies in Innovation, Research and Education (NIFU) report 2019:10 <https://nifu.brage.unit.no/nifu-xmlui/handle/11250/2608244>

³⁸ Regulations concerning appointment and promotion to teaching and research posts, Regulation no. 129 of 9 February 2006

³⁹ White paper Report no. 16 to the Storting (2016–2017) *Kultur for kvalitet i høyere utdanning* [Quality culture in higher education].

⁴⁰ The Research Council of Norway – about the DORA Declaration <https://www.forskningsradet.no/omforskningsradet/stotter-dora-erklaringen/>

⁴¹ Universities Norway (UHR): NOR-CAM – en verktøykasse. Veileder for vurdering i akademiske karriereløp [NOR-CAM – A toolbox for recognition and rewards in academic careers] <https://www.uhr.no/temasider/karrieropolitikk-og-merittering/nor-cam-veileder-for-vurdering-i-akademiske-karrierelop/>

⁴² Process towards an agreement on reforming research assessment, European Commission. https://ec.europa.eu/info/news/process-towards-agreement-reforming-research-assessment-2022-jan-18_en

dat (resident).⁴³ However, it is up to the individual institutions to determine the specific academic requirements for employment in these temporary positions.

Over the past 20 years, there have been major changes in the recruitment landscape. A joint PhD degree has been introduced, and a Norwegian variant of «tenure track», known as «*innstegsstillingen*» [entry position], has been adopted. During these years, strategic escalation of recruitment positions has presented new possibilities and challenges (see the Ministry of Education and Research's strategy for researcher recruitment and career development from 2020).⁴⁴

In 2020, 1634 doctoral candidates defended their theses. The gender balance has remained fairly stable since 2012, albeit with major differences within the various fields. For example, in technology subjects around 25 per cent of the candidates are women, while women account for approximately 60 per cent of the candidates in social sciences and medicine. The share of foreign nationals taking doctoral education in Norway is stable at around 40 per cent. Here, too, there are variations among the disciplines, and within the fields of science and technology, over 50 per cent of the candidates are foreign nationals. More and more people are being recruited to post-doctoral research positions from abroad, and in 2018 more than 70 per cent were immigrants or descendants of immigrants. It is unclear how large a proportion of the foreign post-doctoral fellows leave Norway.⁴⁵

Approximately 10 per cent of doctoral theses are written in Norwegian, primarily in the social sciences, humanities and arts.

About a third of people who complete a doctoral degree go on to a career outside the higher education sector. In some disciplines, such as technology, two-thirds of graduates leave academia. Thus, there are many people in the workforce today who have a doctoral education, and this has been a conscious development on the

part of the authorities. Some 61 per cent of doctoral candidates would like to pursue a career as a researcher in the higher education sector, the institute sector or the private sector.⁴⁶

There is a special PhD in artistic development work for the performing and creative arts, based on artistic methods. The PhD in artistic development work shall both qualify candidates for further artistic development work within the artistic-aesthetic field, and raise the level of competence of academic staff in order to provide the qualifications required for employment in academic positions in the higher education sector.

Most academic staff in the higher education sector divide their time between research and teaching, in so-called «combined positions». Dissemination is a task that is explicitly included in some of the universities' definition of research and development (R&D) time, with expectations that some of the allocated R&D time will be spent on research dissemination or other transfer of knowledge, such as participating in the public debate. Dissemination activity is also a criterion for the allocation of R&D time at some of the institutions, although the Commission does not know the practical details of how this is practised.⁴⁷

Currently, 12.8 per cent of employees in the higher education sector are in temporary positions (not including recruitment positions), which is higher than in the workforce in general (approximately 8 per cent in 2020).

⁴³ Regulations no. 102 of 31 January 2006 concerning terms and conditions of employment for the posts of *postdoktor* (post-doctoral research fellow), *stipendiat* (PhD candidate), *vitenskapelig assistent* (research assistant) and *spesialistkandidat* (resident).

⁴⁴ Ministry of Education and Research: Strategi for forsker-rekruttering og karriereutvikling [Strategy for researcher recruitment and career development] 2020 https://www.regjeringen.no/contentassets/58a8bb9fe-cac4d6aaf9ead1a6e3c1cd/strategi-forskning-web_uu.pdf

⁴⁵ Figures from the Indicator Report 2021, the Research Council of Norway. <https://www.forskningsradet.no/indikatorrapporten/indikatorrapporten-dokument/>. The Nordic Institute for Studies in Innovation, Research and Education (NIFU) and Statistics Norway (SSB) are collaborating with the Directorate for Higher Education and Skills (HK-dir), the Research Council of Norway (NFR) and the Ministry of Education and Research on a researcher recruitment monitoring programme that will follow PhD candidates from the time they are admitted to a doctoral education programme until they retire. This will eventually provide detailed information about career paths for doctoral candidates educated in Norway. <https://nifu.brage.unit.no/nifu-xmlui/handle/11250/2837474>

⁴⁶ Reymert, Ingvild; Nesje, Kjersti; Thune, Taran *Doktorgradskandidater i Norge: Forskeropplæring, arbeidsvilkår og karriereforventinger* [PhD candidates in Norway. Researcher training, working conditions and career expectations]. Nordic Institute for Studies in Innovation, Research and Education (NIFU) report 2017:10 <https://nifu.brage.unit.no/nifu-xmlui/handle/11250/2445865>

⁴⁷ Report from a working group in spring 2021 including an annex on principles for the distribution of R&D time at the University of Agder (UiA). (Case document for the meeting of the Board of UiA on 1 February 2022) <http://open-gov.cloudapp.net/Meetings/uiA/Meetings/Details/568633?agendaItemId=215456>

5.4 Research – scope and funding

5.4.1 Research – actors and scope

Basic figures on research in Norway are published in the Report on Science and Technology Indicators for Norway («The Indicator Report»)⁴⁸ – an annual report on the Norwegian research and innovation system prepared by the Research Council of Norway on behalf of the Ministry of Education and Research. Diku (now the Directorate for Higher Education and Skills – HK-dir) prepares the annual Status Report on Higher Education in Norway⁴⁹, also on commission from the Ministry of Education and Research. One of the chapters of this report is dedicated to doctoral education and research.

The R&D statistics in Norway are divided into the following three R&D-performing sectors:

- The business sector: operations and enterprises whose main purpose is to generate a financial profit.
- The institute sector: industry-oriented and public-oriented research institutes and units with R&D as part of their activities, museums and health trusts that do not have a university hospital function, and private, not-for-profit hospitals.
- The higher education sector: institutions that offer higher education; i.e. universities, private and public specialised colleges, and private and public university colleges. This sector also includes the university hospitals.

R&D (research and development work) is defined as any creative systematic activity undertaken in order to increase the stock of knowledge, including knowledge of man, culture and society, and the use of this knowledge to devise new applications. Important criteria that must be met in order for an activity to be regarded as R&D are that it must be innovative, be creative, have uncertainty related to the result, be systematic, and be able to be transferred and/or reproduced.

In 2019, total spending on research and development in Norway amounted to almost NOK 77

billion, which represents real growth from the previous year of 2 per cent. R&D expenditure in the higher education sector amounted to NOK 26.3 billion, which is 34 per cent of the total, while the corresponding figure for the institute sector was just over NOK 15 billion, or 20 per cent. The business sector accounted for NOK 35.4 billion, or 46 per cent of the total spending on R&D. The higher education sector had real growth of 1 per cent.

The research institutes' share of Norway's total R&D production amounts to approximately NOK 13 billion per year.

In the R&D statistics, the health trusts are split between the higher education sector (the university hospitals) and the institute sector (other health trusts and private, not-for-profit hospitals). The health trusts' total R&D expenditure in 2019 was estimated at NOK 4.8 billion, with real growth last year of 1 per cent. The six university hospitals accounted for more than three-quarters of the R&D activity. Excluding the business sector, the health trusts combined account for about half of all the medical and health-related R&D work carried out in Norway.

Doctoral degrees

In 2020, a total of 1,634 doctoral degrees were awarded at Norwegian universities, of which 848 were funded from the institutions' own budget, 204 were funded by the Research Council of Norway, and 582 were funded by other external sources. This is the fourth consecutive year with a record number of doctoral degrees awarded. In 2020, 40 per cent of the doctoral graduates were non-Norwegian citizens.

Academic publication

In 2018, universities and university colleges accounted for 62 per cent of the academic publications in Norway. The health trusts accounted for 18 per cent, while 14 per cent were from research institutes. The remaining 5 per cent came from other actors (the business sector has little academic publication).

Compared with selected northern and central European countries, Norway is in the mid-range when measured by both the number of academic articles per 1,000 inhabitants and the relative citation ratio, i.e. how often the articles are cited.

⁴⁸ Indikatorrapporten 2021 [Indicator report 2021] <https://www.forskningsradet.no/indikatorrapporten/>

⁴⁹ Diku's report series 07/2021 Tilstandsrapport for høyere utdanning 2021 [Status report on higher education in Norway 2021]. Diku was merged into the Directorate for Higher Education and Skills (HK-dir) with effect from 1 July 2021. <https://diku.no/rapporter/dikus-rapportserie-07-2021-tilstandsrapport-for-hoyere-utdanning-2021>

5.4.2 Funding of research

Universities and university colleges

In 2020, the universities and university colleges had combined operating income in excess of NOK 51 billion. The distribution between the various sources of funding has remained stable over the past ten years. For public institutions, state support accounted for 79 per cent of the total operating income. Funding (grants) from competitive arenas run by the Research Council of Norway amounted to 7 per cent.

Research funding from the EU amounted to NOK 640 million in 2020, with steady annual growth since 2013. In addition, there is funding from the European Research Council (ERC grants).

Sponsored and commission-based («BOA») activity outside the Research Council of Norway, the regional research funds and the EU («other BOA income») is an indicator of the higher education sector's interaction with the outside world. Other BOA income includes funding for both education and R&D from a wide range of sources and partners in the private sector, the public sector and NGOs. Public universities and university colleges had about NOK 3.6 billion in other BOA income in 2020, roughly unchanged from 2019.

The health trusts

The health trusts' R&D activities are largely financed through the basic allocation from the central government (close to 80 per cent), including earmarked research funds (approximately NOK 800 million), which is allocated via the Ministry of Health and Care Services' budget through the regional health trusts and awarded on the recommendation of regional co-operation bodies to the boards of the regional health authorities. The Research Council of Norway accounted for NOK 310 million or 7 per cent of the funding in 2019. Other national sources, i.e. ministries, trade and industry, donations and funds, amounted to approximately NOK 700 million or 15 per cent. Foreign sources funded about NOK 50 million or 1 per cent of the R&D activity in Norway.

Research institutes

The Research Council of Norway prepares an overall report⁵⁰ for the institutes covered by the basic funding scheme for research institutes.⁵¹ The institutes' income comes from many different sources of funding: basic grants and project reve-

nues (grant income) from the Research Council of Norway's various instruments, income related to administrative tasks and grants from ministries and their underlying units, income from nationally commissioned research (public and private sector), and international sources of funding, including the EU.

The share of income from the various sources of funding varies for the different groups of institute. The technical and industrial institutes have the highest share of income from the business sector and from the Research Council of Norway, with these sources accounting for 36 per cent and 27 per cent respectively of these institutes' total operating income), and the lowest share of income from abroad (15 per cent) and the public administration (16 per cent). A large share of the primary industry institutes' income comes from administrative tasks commissioned by ministries and their subordinate units (44 per cent), followed by income from the Research Council of Norway (30 per cent), and income from the business sector (19 per cent). The lowest share of the primary industry institutes' income comes from abroad (5 per cent). The environmental institutes have a high share of income from the public administration (40 per cent) and the Research Council of Norway (38 per cent) and a lower share from trade and industry (11 per cent) and abroad (9 per cent). The social science institutes receive the largest share of their income from the Research Council of Norway (45 per cent), followed by the public administration (34 per cent), and trade and industry (9 per cent), with the lowest share (9 per cent) from abroad.

These statistics do not include funding that the research institutes receive directly from the ministries as operating grants, nor public institutes that perform some R&D, but that have a different main purpose, i.e. the Norwegian Institute of Public Health (FHI), the Norwegian Defence Research Establishment (FF), the Norwegian Institute of Marine Research (HI), the Norwegian Polar Institute (NPI), and Statistics Norway (SSB).

⁵⁰ The Research Council of Norway (NFR): Annual Report 2020: The research institutes <https://www.forskingsradet.no/siteassets/publikasjoner/2021/978-82-12-03896-7-pdf--arsrapport-2020--forskningstinstituttene.pdf>

⁵¹ The Research Council of Norway (NFR): Statlig grunnfinansiering av forskningsinstitutter [Public basic funding of research institutes] <https://www.forskingsradet.no/om-forskingsradet/oppgaver-organisering/instituttsektoren/statlig-basisfinansiering-av-forskningstinstituttene/>

Summary

The overview shows that there is a high proportion of direct government funding for research at universities and university colleges, and at the health trusts. However, the research institutes (or at least those covered by the basic grant scheme) are in a special position, in that they receive a basic allocation that is relatively low in international terms, and are thus largely dependent on external funding.

5.5 Norwegian academic and technical language

In the report *Språk i Norge – kultur og infrastruktur* [Language in Norway – culture and infrastructure], the Language Council of Norway's committee on the future of the Norwegian language states:

In simple terms, Norwegian is being increasingly less used in higher education in Norway, albeit with large differences among different disciplines. While Norwegian is barely used in scientific publications in the field of science and technology, the share of publications in Norwegian was around 30 per cent in the humanities and just under 25 per cent in the social sciences in 2017. However, the use of Norwegian in these areas is also less common than it was before, with a marked decline since 2011. At the doctoral level, 90.8 per cent of theses are written in English and 8.5 per cent in Norwegian (7.7 per cent in Bokmål and 0.9 per cent in Nynorsk). In terms of the syllabus, there are large variations between the subjects, but Norwegian is widely used in most subjects.⁵²

For master's theses, the figures were 56 per cent in Norwegian (54 per cent Bokmål, 2 per cent Nynorsk).

A count undertaken at the University of Bergen (UiB) showed that of the 234 English-language doctoral theses published at UiB between 2017 and 2020,⁵³ fewer than 5 per cent – 11 theses – had an abstract in Norwegian. Ten of the 11 theses with an abstract in Norwegian were from the

Faculty of Medicine. None of the theses in social science subjects had an abstract in Norwegian, even in cases where the researcher, the academic supervisor, the course, the end user, the source material and the source of funding were all Norwegian. To remedy this, the University of Bergen has recently decided that all doctoral theses must include an abstract in Norwegian, in line with the abstract in English, as a compulsory component and that this is to be enshrined in the PhD Regulations.⁵⁴

The increasing number of international researchers in Norwegian academia may also pose a challenge in respect of the maintenance and development of well-functioning Norwegian academic and technical language. In section 6.3.9 of Official Norwegian Report (NOU) 2020:3, the Universities and University Colleges Act Commission (the Aune Commission) wrote:

Research and higher education are international activities, and Norwegian researchers are increasingly collaborating with researchers in other countries. A growing number of internationally mobile researchers are coming to Norway and working at universities and university colleges. In 2007, 16.7 per cent of the academic staff at Norwegian universities and university colleges were immigrants with education from abroad. By 2014, this had risen to 22.3 per cent. However, a high proportion of foreign nationals in the academic staff may make it more demanding to maintain Norwegian as an academic and technical language (cf. chapter 14). There are also far more international students in Norway than even just ten years ago.

Most international academic employees at Norwegian universities and university colleges have a clause in their employment contracts stipulating that they must learn Norwegian within a specified period of time. Several institutions have further elaborated on this requirement in their language policy guidelines. For example, the University of Agder has stipulated that new employees in per-

⁵² *Språk i Norge – kultur og infrastruktur* [Languages in Norway – culture and infrastructure]. The Language Council of Norway 2018 https://www.sprakradet.no/globalassets/diverse/sprak-i-norge_web.pdf

⁵³ Senior Academic Librarian Pål H. Bakka, the University Library, University of Bergen, in an article by Håvard Rem in the national weekly newspaper *Dag og Tid* on 22 October 2021: *Språkveggen mellom forskning og samfunn* [The language barrier between research and society] <https://www.dagogtid.no/samfunn/sprakveggen-mellom-forskning-og-samfunn-6.3.23394.4fddded769>

⁵⁴ Decision of the University Board dated 2 February 2022 https://ekstern.filer.uib.no/ledelse/universitetsstyret/2022/2022-02-02/S_10-22Ny_regel_i_ph.d-forskriften_norsk_sammendrag_av_dravahandling.pdf

manent positions who do not have a Scandinavian language background are expected to learn Norwegian to level B2 within three years, and they should be given training and duties that make this feasible.⁵⁵ The Norwegian University of Science and Technology (NTNU)'s language policy guidelines state that non-Norwegian speaking employees shall be ensured training in Norwegian language, culture and society.⁵⁶

In its consultative statement to the Commission, the Great Norwegian Encyclopedia (SNL) noted that the encyclopaedia provides academics with a platform where they can share knowledge and information with the general public in Norwegian and thus exercise their freedom of expression. SNL pointed out that this represents an opportunity for dissemination for researchers who are not necessarily at the forefront of the research in their field or do research on topics that make the headlines in the media. Writing encyclopaedia entries can also function as a dissemination activity for academic staff who are not comfortable with the degree of simplification required for a feature article for publication in a newspaper or other forms of dissemination in the media, or who do not wish to participate in a public debate characterised by strong opinions, sharp words and heated arguments.

One measure to maintain Norwegian as an academic and technical language is work to develop terminology and bilingual glossaries. The Terminology Portal («*Termportalen*») is a research infrastructure under development at the University of Bergen in collaboration with the Language Council of Norway, for publishing and searching across glossaries, terminology databases and subjects.⁵⁷ The goal is for the portal to become the first place students, professionals and others look when they need information about Norwegian academic terminology and expressions. Many of the existing glossaries and terminology databases have terminology in both Nor-

⁵⁵ Language policy guidelines for the University of Agder (2021) <https://www.uia.no/om-ua/spraakpolitiske-retningslinjer-for-universitetet-i-agder> B2-nivå: Prepared by the Council of Europe, the Common European Framework of Reference for Languages (CEFR) is both a guideline and a scale system to measure level of language proficiency. The framework is used to describe the level of knowledge and skills in foreign languages.

⁵⁶ Språkpolitiske retningslinjer for NTNU [Language policy guidelines for the Norwegian University of Science and Technology (NTNU)] (2009) <https://www.ntnu.no/spraakpolitiske-retningslinjer>

⁵⁷ Termportalen [terminology portal]: <https://www.uib.no/ub/fagressurser/spesialsamlingene/121707/termportalen>

Box 5.1 The Great Norwegian Encyclopedia (SNL)

- 112 million articles read in 2021
- Almost 3.2 million unique users every month
- Almost 600,000 articles read every day
- 61 per cent accessed from a mobile phone
- Cited over 9000 times in the media
- Articles prepared by almost 1,000 experts

The Great Norwegian Encyclopedia's website snl.no is owned by an association in which Norwegian universities and university colleges and several non-profit foundations and organisations are members

Annual Report 2021: About the Great Norwegian Encyclopedia (SNL)

wegian and English, and sometimes also other languages. Glossaries are not only relevant for students whose syllabus literature has been in English and who are going to sit examinations in Norwegian; the existence of Norwegian terminology is a prerequisite for students and experts to be able to communicate and apply their knowledge in a Norwegian social reality, which is ultimately also important for democracy.⁵⁸

Section 1-7 of the Universities and University Colleges Act stipulates that universities and university colleges are responsible for maintaining and further developing Norwegian academic language. This provision was added to the Act in 2009. The previous Act relating to universities and university colleges (1995) contained a provision stating that the language of instruction should «normally» be Norwegian, which was removed in 2002. The reason for this was to enable the institutions to build up a broader offering in foreign languages, primarily English, as part of the internationalisation of education and research in Norway. At the same time, it was also emphasised that it would still be an important task to maintain and further develop Norwegian as an academic and technical language.

⁵⁸ White paper Report no. 25 to the Storting (2016–2017) *Humaniora i Norge* [The Humanities in Norway], section 6.4. <https://www.regjeringen.no/contentassets/e51d8864c32248598e381e84db1032a3/no/pdfs/stm201620170025000dddpdfs.pdf>

In the letters of allocation and letters of grant commitment for 2022, the Ministry of Education and Research has included the following requirements for universities and university colleges:

In connection with the appointment of foreign researchers and teachers, the institutions must set requirements for Norwegian language training. The government expects the institutions to provide training in Norwegian for all employees who need it, and to ensure that the employees' proficiency in Norwegian is sufficient to safeguard Norwegian academic and technical language.

[Exclusively for public institutions:] As a general rule, employees should be required to be proficient in Norwegian within two years. For positions where proficiency in Norwegian is important, proficiency in Norwegian should to a greater extent be included as a requirement in the advertisement for the position.

Teaching, dissemination and academic publication in Norwegian have a strong impact on the relevance of research for society, as well as preparing the students for a working life in Norwegian. Section 1-7 of the Universities and University Colleges Act states that the institutions are responsible for maintaining and further developing Norwegian academic language. The institutions are also required to have a language strategy that must be clearly rooted in their overarching strategies. The government expects the institutions to monitor the language situation in both research and teaching

closely, and to implement measures as and when necessary.

[Exclusively for public institutions:] The work done during the period must be described in the annual report. It is also expected that all bachelor's and master's dissertations and PhD theses written in a language other than Norwegian have an abstract in Norwegian.

With regard to textbooks, the Ministry of Education and Research has previously concluded that this type of activity can result in personal profit and should therefore not be included as an element in the institutions' funding system. Furthermore, the Norwegian Non-Fiction Writers and Translators Association (NFF) has scholarships for non-fiction publications. There is a scheme for textbooks aimed at universities and university colleges that provides financial support for the publication of syllabus literature in Norwegian (Nynorsk and Bokmål) and Sami in cases where there is no commercial interest. The background for the scheme is that it is important for students' learning that they have textbooks in their native language. The scheme is also intended to contribute to the development and use of Norwegian and Sami academic and technical language and terminology in higher education, and to promote greater linguistic equality between Nynorsk and Bokmål.

Teaching materials aimed at primary and secondary education are mainly developed through commercial publishers.

Chapter 6

Challenges to academic freedom of expression

6.1 Introduction

By way of an introduction, the Commission would stress that there is a lot of good use of academic freedom of expression and many fine disseminators in academia. However, the focus of our report is that many academics and students do not, or only to a modest degree, engage in dissemination activities. This is not only because their knowledge is less in demand or not immediately relevant to society, but also because for a variety of reasons they cannot or choose not to prioritise dissemination. Everyone who conducts research and teaching should regard communicating knowledge and actively sharing their insights in broader public spheres as an obvious element of their civic responsibility – and also as one of their work duties. Dissemination is not a task academics can choose to opt out of; it is a responsibility throughout the entire sector.

A general challenge to academic freedom of expression is lack of *time*. Even academics who want to and can engage in dissemination activities often do less of it than they might have if they had more time. However, there are also a number of other factors that affect how academic freedom of expression works – and does not work:

In his report to the UN General Assembly in 2021, the UN Secretary-General wrote that the «war on science must be stopped» and that we must defend «a common, empirically backed consensus around facts, science and knowledge».¹ The statement highlights the external threat to science and the search for truth characterised by resistance to and undermining of research and evidence-based dissemination. This is one of several challenges that complicate academic freedom of expression.

Figuratively speaking, the «war» metaphor resonates with some of the input the Commission

has received. Dissemination and other encounters with the public can at times feel like a battlefield with surprisingly heated and hostile situations – it is a «jungle» out there beyond the ivory tower. A fair amount of the input we have received refers to various dilemmas and challenges related to academic freedom of expression. We have not been able to study all of them in depth, but in this chapter we will explore some of the issues they identify. We do not aim to estimate how extensive or representative the various challenges are.² The purpose of this chapter is to provide a general overview of the «perceived threats» facing academic freedom of expression in Norway today. Although not all of these threats can be averted through the implementation of concrete measures, the overview here forms the basis for the measures proposed by the Commission, which are presented in chapter 7.

The presentation in this chapter is largely based on referred information. As mentioned in section 2.2.3, the Commission is not an investigative committee. We have neither a mandate nor the opportunity to assess specific individual cases. Instead, we have used the input we have received to reflect on some of the conflicting considerations in issues related to academic freedom of expression. In connection with some of the challenges, we also identify how different considerations can be weighed up against one another.

The challenges faced by academic staff and institutions when exercising academic freedom of expression can be structured in different ways. On a general level, challenges and threats against academic freedom of expression may come from above – from the authorities and clients who pro-

¹ Secretary-General's report on *Our Common Agenda* <https://www.un.org/en/content/common-agenda-report/summary.shtml>

² However, several of them are supported by the analyses in chapters 3–7 of the report *Et ytringsklima under press? [A climate of expression under pressure?]* and the findings presented in Mangset, M, Midtbøen, A.H. and Thorbjørnsrud, K (eds.) *Ytringsfrihet i en ny offentlighet. Grensene for debatt og rommet for kunnskap [Freedom of expression in a new public sphere. The boundaries of debate and the arena for knowledge]*. (2022), chapters 7–9. <https://doi.org/10.18261/9788215051017-2022>

vide funding and make decisions, from below – from the local public spheres in which scholars operate, from within – internally in academia, from the management, colleagues and students, and from the outside – from the international and geopolitical landscapes that academia is a part of.

From above: In several countries, including many that we often like to compare ourselves with, we are seeing a trend towards tighter political control over the conditions for academic freedom and freedom of expression.³ These restrictions may be quite drastic, such as outright censorship or other sanctions against institutions or academic staff, or prohibition of politically undesirable methods. However, more subtle methods, such as intervention through political manifestos, expectations or government statements and funding priorities from clients, can also be effective ways to silence some voices in academia.

From below: Like academia, the edited media have a civic mission to seek the truth. They are a prerequisite for academic freedom of expression and a main channel for «translating the thoughts and ideas of experts into language that laypeople can understand». This necessitates good cooperation and mutual understanding between academics and journalists. The prerequisites for this cooperation are threatened by the increasing focus on the bottom line and growing time pressure in the edited media. The internet and unedited media have great democratising potential, and enable vastly expanded freedom of expression and information. However, in the absence of quality assurance and through their use of algorithms that play on human biases for commercial purposes, these public spheres also generate extensive misinformation and fake news, ranging from illegal threats to legal but massive and destructive campaigns and actions against academics.

From within: Academic freedom of expression can also be challenged within academia, due to tendencies towards ideological conformism, formation of uniform attitudes and pettiness, etc. It can be challenged by the management, by their opposing or sanctioning of lawful but controversial or «reputation-damaging» statements. It can be challenged by colleagues, by academic staff who engage in dissemination being opposed by means other than academic freedom of expression, being slandered or excluded from projects, etc., or simply being silenced into submission. And it can be challenged by students, through

academic staff with «wrong» attitudes or teaching methods being opposed via organised campaigns rather than argumentation, and through fellow students with divergent views and attitudes refraining from expressing them. Surveys suggest that there is widespread concern among young people about expressing controversial views.⁴

From the outside: Academic freedom of expression is fundamental to democracy and social and economic growth. Consequently, tensions and conflict between nations may also have an impact in academic arenas. The flipside of open international research collaboration, which is crucial for academia, is vulnerability to foreign interference. The threats to academic freedom of expression are multitude: research espionage, information warfare and misinformation campaigns, pressure and sanctions, for example, in the form of researchers who express controversial ideas or are critical of regimes being denied a visa, and regulations that limit international scientific collaboration. There have been cases in some countries of foreign students trying to influence teaching and their fellow students at the behest of their home country's authorities. China's National Intelligence Law obliges all Chinese citizens to assist public security and state security officials in carrying out a wide array of «intelligence» work and has no geographical limitation.⁵ Hong Kong's much-discussed new National Security Law goes even further and applies to so-called crimes against Hong Kong committed outside China's borders, creating fear among Chinese students in Australia, among others.⁶

Individually and collectively, these types of threats to the pursuit of truth and academic freedom of expression pose a major societal challenge. Even in Scandinavia, where the public authorities normally provide strong support for scientific activities, other forces are pulling in the direction of what has been called a «post-factual state» or «post-truth society» where emotion-

³ See chapter 4.

⁴ Opinion's UNG2022 survey of young people, discussed, for example, here: <https://www.vg.no/nyheter/innenriks/i/66yeOW/unge-er-redde-for-aa-bli-cancelled>

⁵ The Norwegian Intelligence Service: *Fokus 2022 Etterretningstjenestens vurdering av aktuelle sikkerhetsutfordringer [Focus 2022 The Norwegian Intelligence Service's assessment of current security challenges]*. Report from January 2022 <https://www.forsvaret.no/aktuelt-og-presse/publikasjoner/fokus>

⁶ How China's Long Reach of Repression Undermines Academic Freedom at Australia's Universities | HRW: https://www.hrw.org/report/2021/06/30/they-dont-understand-fear-we-have/how-chinas-long-reach-repression-undermines#_ftn90

based arguments have primacy over facts and truth. Resistance to facts feeds on economic and cultural polarisation, cognitive biases and a fractured media situation that allows instant proliferation of disinformation and casts doubts over factual knowledge and expertise.⁷ A knowledge overview published by Lund University states that «there is broad consensus among researchers that the post-truth society, the spread of fake news and the lack of critical thinking are a serious threat to democracy.»⁸

It is important to point out that the legal freedom of expression also protects denial of facts, personal opinions, shocking and offensive allegations, and to a certain extent also lies. Facts and research cannot be defended by limiting the general freedom of expression, but through even more active application of academic freedom of expression to disseminate knowledge and actively participate in discussions with knowledge that has been checked and verified using scientific methods.

6.2 Influences on content, methods, results and dissemination

6.2.1 Political, structural and academic priorities

Political and other priorities regarding what is to be taught and researched, and how, will also influence how academic staff and students use their academic freedom of expression.

Prioritisation takes place through national choices regarding research and education, choices and rankings within the Research Council of Norway, and institutional priorities at the overall, faculty and departmental level. Individual research groups and research projects also make choices regarding which directions to pursue that will in turn influence what staff and students direct their attention towards.

These priorities affect what is being researched and what is taught. This, in turn, will affect what academic content society can have access to. The priorities are related to funding and infrastructure, but not least also to time. If time is

not specifically allocated for dissemination, academic freedom of expression will be weakened.

In Norway, these kinds of priorities have rarely generated much debate, but there are exceptions. In its seven-year research and innovation programme Horizon Europe 2021–2027, the EU has established dedicated «missions» related to major societal challenges and has generally weighted the programme more heavily towards innovation and commercialisation. Critical questions have been raised about the wisdom of this and whether it will come at the expense of free research. Questions have also been raised about the consequences this will have at the national level and the priorities that must be made here. These are important questions, with potential consequences for academic freedom of expression.

National priorities contribute to more knowledge-based policies, for example in the form of increased funding for research in renewable energy that can provide a knowledge-based foundation for political decisions on the green transition. This kind of knowledge is a prerequisite for a functioning democracy. They also contribute to ensuring that the workforce is qualified to meet future societal challenges, for example in the form of increased educational capacity in health and care subjects to cope with the ageing population, and boosting capacity within ICT.

One aspect of prioritisation concerns how much funding should be channelled through the Research Council of Norway relative to the basic funding that the individual universities and university colleges receive. Among other things, the commission that was appointed in autumn 2021 to investigate research funding will assess consistency in the government's funding across forms of allocation (including block grants to universities and university colleges and allocations via the Research Council of Norway and the Directorate for Higher Education and Skills – HK-dir, among others).

In Norway, the public universities and university colleges receive nearly 80 per cent of their income in the form of basic grants from the state. This is very high compared with other countries. Moreover, the appropriations from the state have increased steadily over the past ten years.⁹

In Denmark, it has been decided, through a political negotiation process, that thousands of

⁷ Wikforss, Åsa: *Alternativa fakta: om kunskapen och dess fiender* [Alternative facts: on knowledge and its enemies]. Fri Tanke 2017

⁸ The Swedish Crime Victim Authority: *Näthat och demokratiskt deltagande – en kunskapsöversikt* [Online hate and democratic participation – an overview of knowledge]. 2021 https://lucris.lub.lu.se/ws/portalfiles/portal/99002777/Kunskapsöversikt_nathat_2021_webb.pdf

⁹ White paper Report no. 4 to the Storting (2018–2019) *Langtidsplan for forskning og høyere utdanning 2019–2028* [Long-term plan for research and higher education 2019–2028].

study places are to be moved out of Denmark's largest cities and established in smaller towns. The decision also indicates which subject areas are to be prioritised in the decentralisation of study places. The cuts in the number of study places that the universities in the major cities will have to make will largely be in the humanities. Priorities in one area can thus also lead to deprioritisation of other areas. In other countries, controversial topics are discouraged and deprioritised at the national level. This has obvious chilling potential for academic freedom of expression within the deprioritised disciplines.

Through institutional priorities at various levels, the institutions also make academic choices. Examples of this include the Norwegian University of Science and Technology (NTNU)'s prioritisation of PhD candidates in the University's strategic research area of sustainability, the University of Tromsø's prioritisation of Arctic research, and the prioritisation of five special focus areas for the period 2019–2023 at the University of Oslo's Faculty of Humanities. These are legitimate prioritisations to ensure particular considerations are addressed. Nevertheless, they can also have consequences for those subject areas that do not receive the same level of attention – also with regard to which academic dissemination activities and exchange of opinions will consequently be deprioritised by staff and students.

6.2.2 Institution vs. individual – who is responsible for ensuring quality?

The Universities and University Colleges Act provides guidance on the relationship between the institutions' responsibilities and freedoms, but it is not completely unambiguous. There is a tension embedded in section 1-5 of the Universities and University Colleges Act. Pursuant to this provision, the institutions must «*promote and safeguard academic freedom*». However, the institutions are also responsible for «*ensuring that teaching, research and academic and artistic development work maintain a high professional level and are conducted in accordance with recognised scientific, artistic, educational and ethical principles.*»

How can the management of a university fulfil its responsibility for ensuring that teaching, research and academic and artistic development work maintain a high professional level and are conducted in accordance with recognised scientific, artistic, educational and ethical principles, while at the same time safeguarding and promot-

ing the individual's academic freedom (of expression)?

An academic's choice of research topic and methodology can easily be influenced by the institution's duty to maintain a high professional level and adherence to recognised scientific, artistic, educational and ethical principles. A head of department may believe that an academic employee's choice of method is inappropriate and that a different method ought to be used. How can the employees' freedom to choose their own method pursuant to the fifth paragraph of section 1-5 of the Universities and University Colleges Act be maintained in this kind of case?

This issue comes to the fore where quality considerations are supplemented by other compelling considerations that academic freedom must also be balanced against. An example of this is research projects involving human trials. It may be unethical to invite people (healthy or ill) to take part in a trial, if the method is weak, such that the results may not have the required quality. Should this assessment be left entirely to the Regional Committees for Medical and Health Research Ethics (REK), in cases where they are involved (see section 6.3.3)? The type of research that can be done has an impact on the type of knowledge that will be generated, and thus on academic freedom of expression and society's freedom of information.

Most teachers are subject to evaluations of their study programme. If these evaluations repeatedly show poor results, at what point and in what way should the institution intervene? When does the institutional responsibility for quality of teaching outweigh the individual academic's freedom to plan their own teaching? How well suited are evaluations as a tool for measuring teaching quality? How vulnerable are they to negative reactions to a teacher's unpopular or politically incorrect views, rather than poor teaching quality?

6.2.3 Controversial research topics

Some research topics are controversial. These include politicised issues and areas with strong, conflicting moral or commercial interests.

Typical examples are research on migration, equality, gender and climate. Topics such as salmon farming, predator management and ME research have also sparked considerable debate in Norway. Research related to the COVID-19 pandemic has been mired in controversies, conspiracy theories and threats – albeit to a lesser extent in Norway than in most other countries. In an

international research and learning environment, free expression of views about authoritarian regimes can present a number of problems. The analogy that the public sphere can feel like a «war zone» to some disseminators is particularly apt for people who do research on controversial topics of various kinds.

Researchers say that facing moral condemnation or being embraced in the debate by far-right groups with views that are far removed from their own can make them reluctant to disseminate their research. In addition, having their scientific assessments distrusted on the basis of who they are is highlighted as having a clearly «chilling» effect on their willingness to engage in dissemination. An example of this is a migration researcher who was regarded as saying what he said «because he was a white man».¹⁰ This kind of opposition may come from the broader public sphere, but also from parts of the academic community that are highly focused on theoretical directions, such as critical race theory or structural racism.¹¹

The Commission has received several consultative statements suggesting that some research communities tend to either avoid controversial research topics altogether or avoid engaging in dissemination and contributing to debate on controversial topics and findings. The Universities and University Colleges Act Commission (the Aune Commission) also highlighted this problem.¹²

Avoiding relevant research topics for these kinds of reasons has a range of negative consequences. It limits academics' freedom to choose their topic of research and method. It may also interfere with their teaching, through their being subject to resistance of a non-argumentative and non-academic nature from students who perceive their research interests or findings to be undesirable or offensive. Avoiding certain topics will also affect what and how the academics can and want to communicate. In addition to these negative consequences for the individual researcher, there are also a host of downsides for our common seeking of truth and freedom of information: We end up not getting answers to important questions that

we might otherwise have gained knowledge-based insight into, or only gaining partial insight based on less quality-assured sources of information.

6.2.4 External influences

In addition to the fact that national authorities have the opportunity to assign greater or lesser priority to various research areas through their allocation of resources, they can also exert influence on academia in other ways. Politicians and authorities have power over academia not only in their capacity as owner, but also through their strong influence in public life.

Impartial criticism from the authorities is something academia must of course expect – and indeed welcome. It can contribute to and improve their seeking of the truth, thereby strengthening the academic mission. In view of the power imbalance, however, unfair criticism that, without foundation, seeks to cast doubt over academics' scientific methods and work may easily undermine the public trust in science on which academia depends.

There have been instances of these kinds of statements in Norway. A former minister of fisheries announced that he would take on the «dark counter-forces» in academia and elsewhere, which were damaging the reputation of the Norwegian fishing industry, because they did not produce research results that aligned with Norwegian export interests.¹³ In a parliamentary debate, a former foreign minister and several members of parliament dismissed criticism of a Supreme Court legal opinion by law researchers as showing a lack of respect and «disdain» for the Supreme Court.¹⁴

These kinds of cases are few and far between in Norway, whereas they may be far more systematic in other countries. In many countries, it is also highly controversial to criticise the regime and their politics. This is rare in Norway. A more practical challenge is the question of the extent to which academics are willing to conduct research on fields or engage in dissemination activities or public inquiries, when the results of such work

¹⁰ Mangset, M., Midtbøen, A.H. & Thorbjørnsrud, K. (eds.) (2022). *Ytringsfrihet i en ny offentlighet. Grensene for debatt og rommet for kunnskap [Freedom of expression in a new public sphere. The boundaries of debate and the arena for knowledge]*. Oslo: Universitetsforlaget. chap. 7 <https://doi.org/10.18261/9788215051017-2022>

¹¹ Ibid. chap. 8

¹² Official Norwegian Report (NOU) 2020: 3, section 15.3.4

¹³ Aftenposten: *Varsler oppgjør med «mørke motkrefter» [Announcing a showdown with «dark counter-forces»]*. <https://www.aftenposten.no/norge/politikk/i/o36K/varsler-oppgjor-med-moerke-motkrefter>

¹⁴ See Eriksen and Holmøyvik, Høyesteretts jernbanebetenkning: en statsrettslig avsporing [The Supreme Court's legal opinion on the railways: a derailment of constitutional law], *Lov og Rett* 2022/1 p. 28, section 1.2.

are consistently «prettied up», used selectively for political ends, or simply shelved.

Headlining criticism from «the fourth state power» (i.e. the press and other mass media) can be daunting, but is something academics have to live with, and ideally respond to in an appropriate manner. However, media criticism can also be unfounded or have ulterior motives. It may then not only silence individual researchers, but may also undermine confidence in the particular academic communities in particular and research in general. An example of this is when the Norwegian daily newspaper *Klassekampen* dismissed a researcher at the Institute for Defence Studies as being in thrall to US sources, when in January 2022 she said that all the indications pointed towards Russia going to war against Ukraine.¹⁵

External influence can come from other quarters. Industries, sectors of society, patient associations and other interest groups (both those that co-fund academia and those that do not) can exert pressure on institutions, individual employees and students in various ways. This can create dilemmas for the individual employee and student, as well as for the management. Why don't they silence unpopular scientist X, why doesn't the institute speak up against Y?

Co-funding arrangements can make this type of influence particularly problematic. Most such partnerships do not entail exertion of problematic influence. External partners can contribute valid criticism and correctives in a positive way, thus bettering the research and development work. One factor that can play a part here is the «maturity» of the industry the researchers are collaborating with. According to the consultative statements the Commission has received, the oil industry and the pharmaceutical industry are examples of industries that previously sometimes exerted very problematic influence, but which have now largely (with some assistance from regulations) «matured». The aquaculture industry is regarded as still having potential for further maturation.

¹⁵ «Propaganda» [Propaganda], *Klassekampen* 9 February 2022. The researcher published a well-founded response, see «Merkelig om propaganda fra Braanen» [«Strange views on propaganda from Braanen», *Klassekampen* 11 February 2022. Bjørgulv Braanen subsequently apologised unreservedly for his editorial (see «Ja, jeg tok feil» [«Yes, I was wrong»], *Klassekampen* 1 March 2022. Detailed apologies from the press are rare, but all the more effective when they are forthcoming. They can help build trust between academia and the media, which is essential for them to be able to complement each other in their civic mission to seek the truth.

6.2.5 Media and communication

Academic staff and students depend on channels of dissemination for their academic dissemination to reach a wide audience and for the knowledge to benefit the general public. Some of these channels are edited, other are unedited. The channels present various challenges for academic freedom of expression.¹⁶

The edited media share the same civic mission as academia in respect of seeking the truth and helping people understand the world (i.e. «enlightenment»). They are also similar in their use of investigative and exploratory methods in their work. However, there are also a number of key differences in the way journalists (including editors) and academics think and work. These pertain to how deeply they immerse themselves in issues, how concerned they are with nuances, and not least how much time they are able to spend on the cases they are working on. Given the increased competition from unedited media, speed is becoming increasingly important for the media's production of content. The media are also under pressure to sell, resulting in the use of tabloid methods such as dichotomies, appeal to emotions, exaggeration, focus on individuals, erasure of nuances and details, and an underlining or magnification of sensational quotes or information. This can result in journalistic and academic needs colliding in ways that impact readiness to engage in academic dissemination and the desire to contribute to public enlightenment.

Several of the consultative statements highlight unpleasant media experiences. They may be due to journalists with clear motives regarding a specific angle, «stupid questions», misrepresentative descriptions or very short time limits for both statements and checking quotes. A climate scientist was quoted on the front page of the Norwegian daily newspaper *Aftenposten* as having said «The Gulf Stream is stopping» accompanied by a picture of Oslo under a thick layer of snow. Medical experts have experienced being pitted against each other with opposing statements on pandemic management, even though they may not in fact disagree. Not only can this impede public enlightenment and be uncomfortable for the individuals involved, it can also create a poorer climate of cooperation among academics, even if the impres-

¹⁶ See also chapter 4 of the report *Et ytringsklima under press?* [A climate of expression under pressure?] <https://www.regjeringen.no/no/dokumenter/et-ytringsklima-under-press/id2893147/>

sions people have of their peers are only based on media-created misunderstandings.¹⁷ When a calm and collected law professor was misquoted in bold in a major article as saying «I completely lost it», despite having opposed the misformulation when checking the statements ascribed to him, the press's subsequent correction and apology was of little help: «Correction: In the printed version of this article, Christian Conrad Eriksen was misquoted under the picture of him on page 8. Morgenbladet apologises.» An experienced disseminator can take this in their stride, including being called Christian when his name is in fact Christoffer. However, these kinds of stories spread quickly, and may well make less hardened academics reluctant to voice an opinion when a journalist calls.

Journalistic ethics and standards intended to maintain public trust¹⁸ can challenge the role of experts: In an interview, a researcher on Poles in Norway mentioned the government's quarantine exemption for migrant workers as one explanation for the harassment Poles in Norway experienced during the pandemic. Without informing the researcher, NRK labelled the interview with a statement that the researcher was affiliated with the Norwegian Labour Party. The researcher felt that doubt was being cast over their expertise. Is membership of a political party always relevant when researchers voice an opinion on academic issues that also have a political dimension? We already know that one in three researchers are reluctant to participate in public debates because they are afraid of being perceived as political actors when they are participating as academic experts.¹⁹ What implications might this have for researchers' readiness and desire to engage in political discussions – for their own benefit and that of society? In what circumstances should researchers state their political affiliations? In what circumstances should the media add this information? Should the need for labelling be discussed as a premise for interview situations?

This type of challenge is partly the responsibility of the media. Ideally, the media should demon-

strate understanding of academics' objectives, working methods and requirements concerning academic integrity, such as their focus on particular nuances that might appear unimportant, and the need to check their own cited statements as a result of this. Most good journalists do this. Many strive to act as an intermediary between experts and the general public. As is the case for academics, it is also in the media's interests to maintain a clear distinction between substantiated knowledge and opinions.

Although balance in presentations is important, it can sometimes go too far. It is important to allow opinions that challenge established truths to be voiced. However, it is not always good truth-seeking practice to present documented facts and speculative or unsupported allegations in exactly the same fashion. Poorly considered and false balance in, say, the coverage of climate research or the side effects of vaccines may undermine people's understanding of the importance of the scientific search for truth.

The internet and unedited media provide academics with new opportunities to share their knowledge with the outside world, to find out about the work of other academics, and to participate in new forums and networks for knowledge exchange and discussion. Freedom of information in particular has been greatly expanded. However, online public spheres are fundamentally changing the way society obtains knowledge about the world and about what is real and true. The absence of editorial «gatekeepers» can be liberating and enable the exchange of a much larger range of more controversial findings and ideas. Without them, however, quality assurance, ethical considerations and attempts at balance in the presentation of information also disappear. The opportunities that the internet creates for the exchange of academic information also present new challenges: Online public spheres rapidly generate large volumes of misinformation, for academics and the general public alike, which it is extremely demanding to detect and correct. Populism, contempt for elites, and campaigns for other types of social justice than those academics have traditionally stood for can be catalysts for threats, intimidation and other unfounded attacks. People who voice an opinion publicly may find themselves subjected to «comment wars» and twitter storms that, whilst fully legal, are overwhelming and thus extremely burdensome. The harsher the public spheres become – or at least appear to be – the less tempting it is to participate in them. Also for academics.

¹⁷ See section 6.5.1

¹⁸ In this case, the Norwegian Ethical Code of Practice for the Press, 2.3 «Be open on matters that could be relevant for how the public perceive the journalistic content.» <https://presse.no/pfu/etiske-regler/vaer-varsom-plakaten/>

¹⁹ Mangset, M., Midtbøen, A.H. Thorbjørnrud, K., Wollebæk, D., Fladmoe, A: (2021). *Forskerne og offentligheten – om yttingsfrihet i akademia [Researchers and the public sphere – on freedom of expression in academia]*. Institute for Social Research (ISF) <https://frittord.no/nb/aktuelt/ny-rapport-om-ytringsfrihet-i-akademia>

Box 6.1 Dissemination advice

How to become a better research disseminator: Think about your audience!

1. Talk to people
2. Explain why this is important
3. Avoid technical terminology and jargon
4. Tell a good story
5. Use images
6. Use tables and figures
7. Be concise
8. Be prepared

Nancy Lea Eik-Nes, Associate Professor Emerita, Norwegian University of Science and Technology (NTNU) (here in an abridged version).

<https://www.universitetsavisa.no/forskning/slik-blir-du-en-god-forskningsformidler/134082>

No matter how well or badly the edited and unedited media treat academics' dissemination, academia must relate to the media and the public sphere as they are. This requires a greater understanding of how this «fourth state power» actually works and thinks, good understanding of the genres on the various unedited platforms, and training in how to make good use of them. We discuss how the institutions and individual employees and students can work to promote this in section 7.4.3.

Communications officers are bridge builders between academia and the public. Good communications officers are invaluable for academic staff and students who want to express themselves clearly and in accessible language, ensure their dissemination gets noticed, and understand more about how the various public spheres work.²⁰ Some consultative statements point out that differences in attitudes and goals can sometimes make collaboration between academics and communications experts less fruitful. The communications industry's focus on reputation building and positive publicity can mean unpopular findings and controversial statements receive less attention, and that «difficult» researchers get less help or promotion of their dissemination contributions than their colleagues. In their eagerness to promote good disseminators, communications

departments' own schemes and initiatives can sometimes also drown out other requests for dissemination, because academic employees have relatively little time for dissemination.

6.3 What academics can comment on as academic staff

6.3.1 Representation, use of titles and reputation

Employees have a duty of loyalty that can place restrictions on their freedom of expression. Since the mission of academic institutions and academic employees is the free pursuit of truth, the duty of loyalty will rarely restrict the freedom of expression of employees in academic posts.

In the media, academics occasionally voice opinions on social issues far beyond their own field of expertise. In many cases, these kinds of articles or posts are signed with their academic title and/or institutional affiliation. The media will also occasionally add this information at their own initiative, including in cases pertaining to matters that have nothing to do with the individual's area of expertise.

The employer's right to direct and supervise their workforce includes the right to decide who can speak on behalf of the institution or unit. However, employees have full freedom to express themselves as private individuals. By virtue of their academic freedom, ordinary academic employees who are not in management positions represent only themselves, not their institutions.

Legally, they are therefore free to comment on whatever they want, however they want. From a legal perspective, even sloppy dissemination about subjects in which the employee has no expertise can be presented with the individual's title and institutional affiliation. An example might be if a marine biologist uses her title of professor when putting her signature to subjective claims about urban densification in the leafy residential area she just happens to live. A downside of this is that the public may be deceived into thinking the views have greater weight than they actually do since they come from a professor, while a potential upside is that it demonstrates to the public that even people with impressive academic qualifications are only human.

A basic tenet of democracy is that we have to trust in the ability of our fellow citizens to make good critical judgements about what they themselves read and hear. This is far from always the case. Many people are uncritical to the informa-

²⁰ See also Kierulf, ...*En åpen og opplyst offentlig samtale [An open and enlightened public discourse]* (2017), p. 48. <https://www.idunn.no/doi/pdf/10.18261/issn.1504-3053-2017-01-04>

tion they receive, and many people have an interest in manipulating the public sphere. However, these challenges cannot be overcome through government intervention. We do not have freedom of expression and freedom of information because we believe that everyone is intent on seeking the truth and promoting democracy and the individual's freedom to form opinions – we have it because we do not believe that there is any authority that can, in real time, predict what effect expressions will have in the world, and how people will be influenced by them, and which expressions will lead to what, when and how.²¹

When expressing an opinion, whether academically or as a private citizen, academics who are in managerial positions – «head of department», «dean» or «rector» – may use their academic title. If they are so high up that they will be recognised as a person in a position of power without adding their title, it can be a good idea for them to clarify the capacity in which they are writing, to avoid any doubt as to whether, in this particular instance, they are writing as a private citizen or on behalf of the institution.

Irrespective of what the general freedom of expression protects, academic freedom of expression and responsibility of expression raise questions regarding when academic staff *should* use their title and/or institutional affiliation. The answer to this question in terms of research ethics is that title and field of study should be used when communicating as a researcher, but not when communicating as a private citizen.²² However, this distinction is not always easy to draw.

The Commission's broad framing of academic freedom of expression is described in section 3.1. We regard this freedom and the responsibilities it entails as applying to all contributions based on the special knowledge, insight and experience that academics have in respect of both scientific and institutional issues. That is, communication linked to what the individual has done research on, knowledge and insights based on others' research, information and discussion about their own field of study, on theories of science, methods, ethics and norms of objectivity and factuality – and on the structural prerequisites for academic work, from funding to administration. All dissemination on these kinds of issues may constitute exercise of academic freedom of expression. It is

the individual's responsibility to decide whether or not they should use their title in connection with dissemination activities.

The question of when academic staff *should* make statements as researchers occasionally arises as an extension of the managers' duty of care for the reputation of the institutions and/or unit. How does it look when employees express controversial ideas or pontificate outside their fields of expertise in public arenas using their title and institutional affiliation? In some cases, it can look very bad indeed. However, the institution is not the employee. If a single, opinionated researcher can be so detrimental to an institution's reputation – one has to wonder how robust that reputation really was in the first place.

Managers who react to what they believe to be reputation-damaging statements with internal reprimands or external comments must bear in mind that, in terms of labour law, they are in a position of authority vis-à-vis the researcher with whom they disagree. Sanctions and rebukes may have a significant chilling effect on the researcher's readiness to communicate their research in the future, and may even verge on legal interference with their freedom of expression. At public institutions at least, managers and other people in leadership positions also have a positive duty to ensure that researchers can exercise their freedom of expression, in order to «create conditions that facilitate open and enlightened public discourse», as laid down in Article 100 (6) of the Constitution. How is this duty being fulfilled if views and opinions a manager disagrees with are quashed using institutional or employer powers, as opposed to countered using valid argumentation?

One way in which institutions can improve their reputation is to communicate more in the public domain. This communication should come from academics, not from the institutional management. It is an element of the responsibility of academic expression to contribute to the seeking of truth and good public enlightenment. This also entails a duty to counter publicly what one believes to be incorrect or poor dissemination of knowledge within one's own fields, and to supplement the dissemination of knowledge that already exists, with more and better dissemination.

One question about the relationship between individual researchers and institutions is whether the institution itself can and should flag views on various social issues. The institutions have their own academic freedom, whereby they are independent of the state powers and the organisations that fund them. They can have their own opinions.

²¹ See also section 3.1.2

²² See, for example, Guidelines for Research Ethics in the social sciences and the humanities, norm 50, second paragraph, fourth and fifth sentences.

Box 6.2 Academic freedom at the Norwegian University of Life Sciences (NMBU)

Research shall be free and independent. NMBU does not take sides in academic debates.

Academic freedom and the independence of research are fundamental principles of the University's activities.

What is «academic freedom»?

- Academic freedom is a fundamental, mandatory invariable principle
- Research is free and independent – no one can influence research results
- Researchers are free to comment on academic issues, using their title and institutional affiliation
- The University as an institution does not have opinions on academic issues

Academic freedom is about avoiding established power structures defining what research should be done.

Academic freedom shall be motivated by the independent development of knowledge for the benefit of society.

In the long run, society is best served by the independent development of knowledge, based on scientific principles and developed at an arm's length from the state, industry and stakeholders.

This means that:

- NMBU researchers can speak freely on an academic basis about animal welfare, agriculture and all other disciplines at NMBU.
- When individual researchers from NMBU voice an opinion, using their title and institutional affiliation, they do so as experts in a field, not «on behalf of NMBU» as an institution.
- NMBU has not taken and will not take sides in academic debates.
- It is not a goal that all researchers at NMBU shall express similar views; on the contrary, we encourage many angles and academic debate.

<https://www.nmbu.no/om/utvalg/etikkk/akademisk-frihet>

This will be reasonably straightforward in connection with social issues that «everyone agrees on», such as the importance of democracy, equality, freedom of expression, etc. In other areas, however, such as climate change, the environment and energy, it may be more contentious, and in areas such as migration and gender, it can be highly controversial. Should a faculty or institute have an opinion on drug reform? What about employees who are «trapped» in a point of view with which they do not agree, based on academic or general grounds? Just as the institution is not the individual academic employee, the academic employee is not the institution. If an academic disagrees with views or information conveyed by their institution, they have a particular duty to argue against it, by virtue of their academic position.

Sometimes the distinction between institution and researchers can be rather blurred. One example of this is consultative statements from faculties or universities and university colleges. They may be written by engaged researchers in the field, but submitted in the name of the institution. Whose views do they then express? If they have been considered and approved by the institution's decision-making or advisory bodies, it is reasonable to

regard them as institutional views – with the added legitimacy and weight this can lend. If this is not the case and they have not even been reviewed by the management of the institution, it might be more appropriate to regard them as the researcher's views. It is then a question of whether they should rightly be presented as coming from the institution.

It can be useful for the institutions to have guidelines to ensure there is information about and good processes for «institutional opinions».

6.3.2 Loyalty and uniforms

As pointed out in section 6.3.1, in democratic societies we must have confidence that all citizens are free to take a critical stance, including towards people who use their title and institutional affiliation to voice their opinion on matters far beyond their fields.

In some academic employment relationships, however, different dilemmas related to loyalty issues may arise. These dilemmas are not so much related to labour law, but rather because in some working relationships it can be more difficult for the general public to distinguish between different elements of an academic employee's var-

ious roles. Academics may be considered as more of an exponent of that part of their work that has nothing to do with science and the pursuit of truth. This can create some particular challenges both for the individual academic employee and for their managers.

Normally, there should be no conflict between loyalty to one's employer and full academic freedom of expression. However, situations may arise, at least at some institutions, where the duty of loyalty and full freedom of expression may appear to be in conflict and create a dilemma.

This pertains primarily to academic staff affiliated with the so-called «uniform schools», i.e. the Norwegian Police University College and the Norwegian Defence University College, but it may also be an issue for «uniformed» health workers. When these individuals express a view while wearing a uniform – are they speaking as a private citizen, as an academic, or on behalf of the government agency? In terms of the law, these academics also have the freedom to express themselves in the manner they think best. They have a loyalty to the pursuit of truth, to society and to their agency.

On the one hand, a uniform can lend greater legitimacy to the individual academic expressions and help highlight the importance of defence and policing in society. The fact that the Norwegian Armed Forces and the police have uniformed researchers who have full academic freedom means critical questions can also be raised about the institutions and policies. Moreover, the fact that they can dedicate time to seeking the truth can build trust not only in the research, but also in the agencies. Precisely by virtue of their dual competency as both government employees and academic staff, they may have insights that are particularly important for their research, teaching and dissemination. In addition, nothing actually changes when they remove their uniform – they are still who they are. However, the dilemmas that may arise from the exercise of academic freedom of expression while wearing a uniform require an additional focus on understanding the role of uniformed academic staff and a high level of understanding on the part of their superiors of the various roles these employees must fulfil. These dilemmas cannot be «resolved» by any other means than open, reflective discussion in the institutions where the questions arise.

This issue is particularly important for employees and administrators at the Norwegian Police University College and the Norwegian Defence University College, since the police and

the Norwegian Armed Forces are in charge of the two sides of the state's monopoly over the means of violence.

In Norway, the military is subject to civilian control, and the Norwegian Armed Forces must adhere loyally to the political decisions that are made. Such decisions are not always entirely clear, and yet the Norwegian Armed Forces must operationalise them into concrete actions. How then should a researcher in military uniform who, say, publicly expresses opposition to political decisions on television be interpreted? Few people would think that the Storting should start preparing for a military coup, but uniformed criticism of political decisions may raise some fundamental questions. In theory, the uniformed researcher can be sent on a mission with which she has publicly expressed dissatisfaction. Will her colleagues, superiors and the public then continue to have confidence in her? These questions can be countered by approaching them from the opposite angle and instead regarding the uniformed researcher as an academic employee: Do we have full confidence in research from a uniformed and loyal employee of the Norwegian Armed Forces? How do we know that the person in question is «really» a researcher, and not just speaking on behalf of the agency, and in line with political decisions? Some of the same issues also arise at the Norwegian Police University College, albeit in a slightly different form.

If academic statements are erroneously taken to be statements made on behalf of the police or the armed forces, the public may interpret them as a message from the authorities supported by an agency that has the power to exercise the means of violence. Misunderstandings of this nature can also cause citizens to self-censor any counter-arguments they might have wanted to express. If they come from academic staff in the Norwegian Armed Forces, they might also have effects that do not align with foreign policy and security policy objectives, in times of conflict, crisis and war. Other states may not necessarily be accustomed to military employees having academic freedom of expression. They may thus perceive statements from uniformed academic staff as conveying official Norwegian standpoints on defence issues. They might also use these statements as evidence of this for propaganda purposes, for example. The closer we are to a crisis or war situation, the more important it becomes for the educational institutions to continuously assess the various aspects of uniform use in connection with dissemination activities.

If doctors or other health professionals voice an opinion wearing their scrubs or «uniform», it can be difficult to tell whether they are expressing themselves individually as a researcher or as a doctor employed at the relevant institution, and thus what authority or status their statements have. This has been exemplified numerous times during the COVID-19 pandemic. None of the consultative statements the Commission has received mention or imply that the public debate in Norway on COVID-19 with and among «uniformed» health professionals has created any such uncertainty. Rather, our impression is that the exchanges that have taken place have contributed to meaningful discussion about how the pandemic could best be handled. From this angle, the impact of this particular dilemma of uniformed academic freedom of expression appears to have underscored the building of trust that free speech and public disagreement among experts can also contribute to.

6.3.3 Rules and guidelines that limit academic freedom

The right to academic freedom is enshrined in the Universities and University Colleges Act. However, academia in general and research in particular are also subject to other regulations. In recent months, there has been debate, including in the online newspaper for higher education and research *Khrono*,²³ that the law is preventing necessary research. This debate has partly arisen as a result of discussions about research into the various measures implemented in connection with the COVID-19 pandemic. Some of the consultative statements the Commission has received also suggest that the systems for assessing possible scientific misconduct may pose a threat to freedom of expression.

According to the OsloMet report *Et yringsklima under press? [A climate of expression under pressure?]*:

Academic freedom cannot exist without a protected space that ensures that responsible choices can be made regarding research questions and forms of interaction. Research, teaching and dissemination must be based on a sufficiently broad spectrum of possibilities,

enabling systematic seeking of the truth and the necessary distance from external interests.

In other words, academics need an arena that is free from illegitimate restrictions. There are several types of restrictions that can narrow down the arena for academic freedom in a purely descriptive sense, but which in fact curtail freedom of choice that goes beyond the norms of research or fundamental legal principles. Examples, such as the fact that research must be conducted in accordance with the principles of the Helsinki Declaration and the fact that contractual terms and conditions must be respected, do not in themselves narrow down the arena for exercising academic freedom per se. However, these kinds of legitimate restrictions may of course be linked to illegitimate limitations when they are administered in a problematic manner, such as if rules for data collection or loyalty to the institution that has commissioned the research impede critical research.²⁴

Academic freedom entails both rights and obligations. Regulations in the areas of research ethics, protection of privacy and protection against discrimination are in principle both legitimate and necessary restrictions on academic freedom. The same applies to research ethical norms. Research ethics can also be said to be a prerequisite for academic freedom, in that research ethics articulate the duties that make academic freedom possible.²⁵

In the white paper Report no. 19 to the Storting (2020–2021) *Styring av statlige universiteter og høyskoler [Governance of public universities and university colleges]*, the Ministry of Education and Research writes the following in respect of academic freedom:

Although academic freedom is far-reaching, it is not absolute. Researchers and educators are subject to the same laws and regulations as others, and research is also subject to separate ethical rules and guidelines. Although the employer's right to direct and supervise employees in academic positions is limited by

²³ See, for example, the article «Ut mot «jussifisering» av etikken» [Speaking out against the «codification» of ethics] (*khrono.no*) <https://khrono.no/ut-mot-jussifisering-av-etikken-gi-forskere-mer-tillit/657763>

²⁴ The report *Et yringsklima under press? [A climate of expression under pressure?]*

²⁵ Vidar Enebakk, Head of Secretariat at the Norwegian National Research Ethics Committees (FEK), in the article «Akademisk frihet krever aktivt lederskap» [Academic freedom requires active leadership] <https://www.forskningsetikk.no/aktuelt/akademisk-frihet-krever-aktivt-lederskap/>

the provisions on academic freedom, this only applies to academic matters, and academic freedom applies within the framework of the position and the employment contract. In other words, it is both possible and desirable to combine the individual's academic freedom with good academic leadership at the ground level, strategic planning at the institutional level, and the government's knowledge policy at the national level.

In particular, protection of privacy and research ethics will entail restrictions on which research projects can be carried out. The discussions show that there is a lack of knowledge in many research communities about the regulations, and not least about who is responsible for the various assessments and decisions. This in itself poses a challenge. It is also problematic if the parties that enforce privacy and ethical norms do so in ways that do not adequately take into account the fine balance that must be achieved between the considerations behind these norms and the considerations behind freedom of expression, freedom of information and academic freedom.

Research ethics

The purpose of the Research Ethics Act²⁶ is to ensure that all research carried out by public and private institutions is conducted in accordance with recognised norms of research ethics. The Act imposes a duty of due care on *researchers* to ensure that all research is conducted in accordance with these norms, and imposes a duty on all *research institutions* to ensure that all research carried out at the institution is conducted in accordance with these norms.

Special rules apply to medicine and health research. The Health Research Act²⁷ sets requirements regarding the organisation of medical and health research. The project manager, the research coordinator and the research institution are all ascribed responsibilities. All medical and health research involving human beings, human biological material or personal health data must be approved in advance by one of the Regional Committees for Medical and Health Research

Ethics (REK). The Act does not stipulate in closer detail what it is that the Regional Committee for Medical and Health Research Ethics is to assess, other than that the committee must «undertake a standard evaluation of the research ethics of the project and judge whether the project satisfies the requirements laid down in this Act or pursuant to this Act» (cf. section 10). In practice, the Regional Committee for Medical and Health Research Ethics undertakes a comprehensive assessment of all aspects of the project in respect of research ethics and makes sure that the project as a whole is ethically sound. When done well, overall assessments of this nature do not pose a challenge to academic freedom and academic freedom of expression. On the contrary, they are a prerequisite for them. The Regional Committees for Medical and Health Research Ethics also assess the processing of personal data that the projects will entail. This applies, among other things, to whether data collection, data management, sharing of data and data ownership are in accordance with the rules on non-disclosure of confidential information and protection of privacy. In other words, there is a slight overlap between the Health Research Act and the rules on protection of privacy in this area. Irrespective of this, it is the research institution that is responsible for ensuring compliance with the requirements concerning protection of privacy. The National Committee for Medical and Health Research Ethics (NEM) is the appeals body for decisions made by the Regional Committees for Medical and Health Research Ethics.

For other research, the individual researcher and institution are responsible for safeguarding research ethics, without any requirements for prior consent. The National Committee for Research Ethics in Science and Technology (NENT) and the National Committee for Research Ethics in the Social Sciences and the Humanities (NESH) have prepared guidelines for research ethics in their respective fields. These supplement international guidelines. The committees can provide advice and guidance in specific cases. The Guidelines for Research Ethics also contain rules on the protection of research participants and their personal data. Informed consent is one of the mainstays of research ethics, and it is up to the individual researcher and research institution to assess whether it will be ethically sound to conduct research on people without obtaining their consent.

²⁶ Act no. 23 of 28 April 2017 concerning the organisation of work on ethics and integrity in research (the Research Ethics Act)

²⁷ Act no. 44 of 20 June 2008 on medical and health research (the Health Research Act)

Protection of privacy

The Norwegian Personal Data Act²⁸ implements the EU's General Data Protection Regulation (GDPR) into Norwegian law. The GDPR applies as Norwegian law and lays down the main requirements in connection with the handling and processing of personal data in research. The GDPR ascribes responsibility for data protection to the data controller, which in the context of research will be the research institution, not the individual researcher. According to the GDPR and Norwegian law, all use and processing of personal data must have a valid legal basis. For researchers, this basis may be the consent of the research participants or, for example, section 8 of the Norwegian Personal Data Act on the processing of personal data for purposes related to scientific or historical research. The GDPR also has rules on data minimisation, purpose limitation, information security, and storage limitation, among other things.

The GDPR requires all undertakings that process personal data to designate a data protection officer, who must be involved in all matters concerning the handling and processing of personal data. The data protection officer may be a person within the undertaking or an external provider. The former Norwegian Centre for Research Data (NSD), which has now been incorporated into Sikt – the Norwegian Agency for Shared Services in Education and Research, advises a number of research institutions on data protection issues. NSD/Sikt has received some criticism for their work, including that they are preventing research. Several major undertakings have organised themselves in such a way that research projects must be routinely submitted to the data protection officer and the data protection adviser. This places a heavy burden of responsibility on the data protection officer and the data protection adviser: In addition to safeguarding protection of privacy considerations, they must also take freedom of expression and freedom of information into account, and strike a good balance between these disparate, and sometimes contradictory, needs.

The Commission would point out that pursuant to the GDPR, the role of data protection officer cannot approve projects, but only make a recommendation. Responsibility lies with the relevant undertaking where the data processing takes place. This places similarly high demands on the

undertakings to strike a good balance between the different, and sometimes contradictory, considerations. It is also important to note that the referenced practice is part of the internal administration and case processing that is not governed by the GDPR or Norwegian law.

The data protection rules impose constraints on the sharing of research data. In particular, the General Data Protection Regulation (GDPR) and the European Court of Justice's decision in the Schrems II judgment have created legal challenges for the transfer of personal data to countries outside the EEA, such as pseudonymous health data for use in medical research. This has particular implications for collaboration with the USA on research involving the use of register data. The rules place strict restrictions on the possibilities for research collaboration and sharing of research data with research institutions outside Europe. The Commission will not go into this in any further detail.

The institutions' responsibilities

It is important that the institutions are aware of their own responsibility for research ethics in general, and the data protection regulations in particular. The academic staff and other employees who have an influence on the academic tasks must receive training and be involved in competence building and ensuring the system is designed in a way that promotes good compliance.

The institutions must themselves discuss and decide how much verification and monitoring there should be and how much the individual researcher should be trusted to comply with the rules. Raising awareness and knowledge among the staff will be an important first step. In addition, there must be clear understanding that protection of privacy is safeguarded partly by rules laid down in legislation and partly by research ethical norms, how these norms relate to each other – and what other rights and considerations they must be weighed up against. In order to establish good administrative routines and distribution of responsibilities, knowledge of these issues is needed at all levels. Knowledge is also necessary to be able to formulate well-founded needs for improvements. This must be included in the training that employees must receive in research ethics (pursuant to the Research Ethics Act) and academic freedom (cf. the Commission's proposal in section 7.2.2).

Other actors, such as the national ethics committees, the Regional Committees for Medical and

²⁸ Act no. 38 of 15 June 2018 relating to the processing of personal data (the Personal Data Act)

Health Research Ethics, the protection of privacy service provided by Sikt – the Norwegian Agency for Shared Services, must also be clear in their communication and in their roles.

Several research communities have noted that the current regulations for the processing of personal data, especially in connection with medical and health research, make it difficult to do research on the pandemic and the measures that have been implemented in an attempt to control it. The Commission is aware that work is underway under the auspices of several ministries (including the Ministry of Education and Research and the Ministry of Health and Care Services) and government agencies (including the Norwegian Institute of Public Health – FHI, Statistics Norway – SSB, and the Research Council of Norway – NFR) to look at access to data to improve the knowledge base in times of crisis.²⁹ The goal is to investigate how research on measures can be initiated promptly, without violating requirements concerning data protection or sensitive data. They will also look at infrastructure for sharing and using data.

This is of fundamental importance. The pandemic provides a good example of the dilemmas that can arise at the intersection of data protection/research ethics and freedom of information: Measures that interfere with fundamental rights – such as bans on receiving visitors in private homes, mandatory quarantine and travel restrictions – not only require a valid basis to be legal, they must also be appropriate, necessary and proportionate. Otherwise, they can easily entail both constitutional and human rights violations. In the absence of research on whether the various measures even work, and how they work, it is difficult to argue that they are appropriate and necessary. In this case, can we continue to use them?

Some of the consultative statements point out that journalists can gather personal data without the same kinds of restrictions that researchers face. Article 85 of the General Data Protection Regulation (GDPR) obliges member states to provide for exemptions or derogations from the provisions in a number of chapters of the Regulation for the processing of personal data that takes place for journalistic purposes and for the purposes of academic, artistic or literary expression to the

extent necessary to reconcile the right to the protection of personal data with the right to freedom of expression and information. This exception has most recently been discussed in the bill Proposition no. 158 to the Storting (2020–2021) on amendments to the Personal Data Act and Freedom of Information Act (freedom of expression and information, etc.),³⁰ as well as in the preparatory works from 2018.³¹ The Commission will not go into this in any further detail, but recommends that greater attention be paid to these issues throughout the entire sector.

6.3.4 Academic freedom of expression in a changing geopolitical landscape

Both collaboration and limitations on collaboration can challenge academic freedom

The ideal of open, free research with unobstructed access to knowledge cannot be realised without international collaboration. For Norwegian institutions and researchers, this kind of collaboration must be based on a foundation of academic freedom and freedom of expression, but these values are often challenged in a world where a majority of countries do not have a democratic system of government.³² These kinds of challenges can manifest themselves in a number of different ways.

First, Norwegian researchers' academic freedom of expression might be compromised in international collaborations. We depend on foreign research results being reliable, and many researchers in Norway collaborate with researchers in countries with challenging regimes. The fact that researchers in some other countries do not have academic freedom constitutes a risk for research in Norway, as we cannot be certain that the findings are not politically motivated. Norway receives some vulnerable academics and students from countries that may qualify for official assis-

²⁹ Vurderer endringer i loven – slik vil de legge bedre tilrette for forskning på pandemien [Considering changes to the law – improving the parameters for research on the pandemic] (bt.no) <https://www.bt.no/nyheter/innenriks/i/mryqBv/vurderer-endringer-i-loven-slik-vil-de-legge-bedre-tilrette-for-fors>

³⁰ Proposition no. 158 to the Storting (2020–2021) (Bill): <https://www.regjeringen.no/contentassets/41e3f0c53b854791b4f064a29ce27bc8/no/pdfs/prp202020210158000dddpdfs.pdf>

³¹ Proposition no. 56 to the Storting (2017–2018) (Bill and Resolution): <https://www.regjeringen.no/contentassets/1a36e88f124d4a1ea92a9c790be2d69a/no/pdfs/prp201720180056000dddpdfs.pdf>

³² Democracy Reports: In their 2021 annual report, researchers at the Varieties of Democracy (V-Dem) Institute in Gothenburg concluded that, for the first time since 2001, more than half of all the world's countries now have an autocratic style of government. This conclusion is based on a single measure of democracy produced using V-Dem data. http://v-dem.net/democracy_reports.html

tance through the international Scholars at Risk (SAR) scheme and the Norwegian Students at Risk (StAR) scheme (see the discussion in section 4.5). These individuals are given the opportunity to continue their research or studies and finish their degree at Norwegian universities and university colleges. The schemes also help Norwegian institutions gain a broader perspective on the situation in other countries. Scholars at Risk encourages universities and university colleges to invite the persecuted researchers and students to speak on campus. The most important channel for disseminating research is through education and teaching, and encounters with SAR colleagues or StAR students adds invaluable content to the students' learning.³³

Second, international research collaboration is often hampered by migration policy, restrictions on labour immigration and visa restrictions.³⁴ This has an impact in both directions: Norwegian institutions may have difficulty recruiting skilled researchers to Norway, and Norwegian researchers may experience problems getting a visa to visit other countries – or will only be granted a visa on the condition that they refrain from criticising the regime.

Third, Norwegian researchers collaborating with researchers in certain countries may experience restrictions due to the Norwegian authorities wanting to prevent the transfer of certain types of knowledge and expertise for security policy reasons. The openness and transparency on which knowledge institutions are based and depend also render universities and university colleges vulnerable. The stricter export control rules that are going to be introduced in Norway may severely restrict Norwegian institutions' international research collaboration on grounds of security policy considerations. Norway is a leader in research, technology development and industry in areas that countries like Russia and China are also trying to develop. Within the natural sciences and technology, research and development related to defence, health, maritime technology, petroleum and space are especially at risk.³⁵ There are also particular challenges associated

with collaboration and knowledge transfer in sensitive disciplines in some parts of the social sciences. The new regulations will probably entail that research projects and collaborations that have previously been covered by academic freedom will in the future be subject to approval from the Ministry of Foreign Affairs.³⁶

Fourth, openness and transparency also make institutions vulnerable to foreign intelligence, espionage and data breaches. Electronic surveillance or hacking can occur when Norwegian researchers are staying in partner countries or through cyber attacks in Norway against institutions or individual researchers. For example, in 2021 a German–Iranian researcher at a Norwegian university was charged with contributing to the hacking of the university's computer system that contained information that is subject to export control. He has been charged with sharing information about Norwegian defence materiel with a group of Iranian guest researchers and giving them access to the university's laboratories. In their national threat assessments for 2022, both the Norwegian Police Security Service (PST) and the Norwegian Intelligence Service issued strong warnings about Chinese and Russian intelligence in Norwegian research and educational institutions, which experience data breaches with surprising regularity.³⁷ Both Russia and China are priority partner countries for Norway in the fields of research and education.

Fifth, some foreign nations may exert influence or put pressure on researchers and students in Western countries. Influence may also take the form of the establishment of institutions or programmes that promote certain national or political interests. In Norway, there has been debate about

³³ Summarised from the 10th anniversary conference for Scholars at Risk, University of Oslo, 21 September 2021.

³⁴ Norske myndigheter stopper allerede mange internasjonale prosjekter. Hva når de nå får tusenvis av flere søknader? [The Norwegian authorities are already stopping many international projects. What will happen when they receive thousands more applications?] (khrono.no) <https://khrono.no/norske-myndigheter-stopper-allerede-mange-internasjonale-prosjekter-hva-nar-de-na-far-tusenvis-av-flere-soknader/660189>

³⁵ The publicly available threat and risk assessments produced by the Norwegian Intelligence Service, the Norwegian Police Security Service and the Norwegian National Security Authority indicate that academia, companies and research are particularly vulnerable; cf. Focus – the Norwegian Armed Forces (<https://www.forsvaret.no/aktuelt-og-presse/publikasjoner/fokus>), the Norwegian Police Security Service (PST)'s National Threat Assessment for 2022 (<https://www.pst.no/alle-artikler/trusselvurderinger/ntv-2022/>), and the Norwegian National Security Authority (NSM)'s report (https://nsm.no/get-file.php/137798-1644424185/Filer/Dokumenter/Rapporter/NSM_rapport_final_online_enekeltsider.pdf)

³⁶ «... sikkerhet vil kunne veie tyngre enn akademisk frihet» [«... national security may well outweigh academic freedom»] (khrono.no) <https://khrono.no/sikkerhet-vil-kunne-veie-tyngre-enn-akademisk-frihet/658672>

³⁷ Slår alarm om trusselen fra Kina og Russland [Sounding the alarm about the threat from China and Russia]. (khrono.no) <https://khrono.no/slar-alarm-om-trusselen-fra-kina-og-russland-tar-seg-inn-pa-heimekontoret/660690>

the now discontinued Confucius Institute at the University of Bergen³⁸ and the Fudan-European Centre for China Studies at the University of Oslo.³⁹ To date, there is little known evidence of direct pressure on students or researchers in Norway of the type described in section 4.2.3; however, by way of an example, the head of the Norwegian Intelligence Service has pointed out that the Chinese Security Act obliges all Chinese citizens, including those in academia, to contribute to Chinese intelligence work if asked to do so.⁴⁰ In its National Threat Assessment for 2022, the Norwegian Police Security Service (PST) states that Russian intelligence services in particular prioritise the recruitment of human sources in Norway, and this often takes place in professional settings such as seminars, conferences and trade fairs.

Partner countries with which Norway does not have an agreement on security policy cooperation

The challenges in connection with international collaboration are discussed in the government's Panorama strategy (2021–2027).⁴¹ Panorama is the Norwegian government's long-term plan to strengthen cooperation on higher education, research and innovation with nine strategically relevant partner countries outside the EU and EEA: Brazil, Canada, India, Japan, China, Russia, South Africa, South Korea and the USA. The purpose of cooperation with these countries is to enhance the quality and relevance of the Norwegian knowledge sector, with links to trade and industry partnerships, building on reciprocity and accountability.

The strategy states that the government, in consultation with the higher education and

research sector, will draw up national guidelines for responsible international cooperation in order to contribute to increased knowledge and awareness among Norwegian higher education and research institutions on the opportunities, challenges and dilemmas related to international cooperation. The challenges largely apply to academic cooperation with countries with which Norway does not have an agreement on security policy cooperation. In recent years, there has been growing focus in the media and in the sector itself on the delicate balancing act between continued openness in Norwegian higher education and research and national security considerations. The proposal to develop separate guidelines for responsible international cooperation has been inspired by similar initiatives in other countries in recent years, including Sweden, the Netherlands, Germany, the UK and Australia. Denmark and Finland are also currently working on measures in this area.

Since autumn 2020, the Ministry of Education and Research, in collaboration with the Ministry of Foreign Affairs, the Ministry of Justice and Public Security and the Ministry of Defence, has conducted regular meetings to discuss cooperation with China (the China roundtable). A number of issues are discussed at these meetings with the sector, such as guidelines for responsible academic cooperation with China, for example. In addition, the Research Council of Norway (NFR) and the Directorate for Higher Education and Skills (HK-dir) have established Meeting Place China for the institutions, which in recent years has itself developed a number of resources linked to collaboration with China in particular.⁴² The EU has recently published an advisory guide to reduce foreign interference in research and innovation cooperation.⁴³

The export control rules also apply to research collaboration and in connection with admission and appointment of foreign persons in sensitive areas (see section 5.1.4). The Danish intelligence service has recently released a report on espionage threats, and like the Norwegian Intelligence Service has noted that students and

³⁸ Legger ned omstridt Kina-samarbeid i Bergen [Discontinuing controversial China collaboration in Bergen] (khrono.no) <https://khrono.no/legger-ned-omstridt-kina-samarbeid-i-bergen/552103>

³⁹ Kritisk til senter ved Universitetet i Oslo: – Et brohode for kinesisk propaganda [Critical of the Centre at the University of Oslo: «A bridgehead for Chinese propaganda»] (khrono.no) <https://khrono.no/kritisk-til-senter-ved-universitetet-i-oslo-et-brohode-for-kinesisk-propaganda/559676>

⁴⁰ Slår alarm om trusselen fra Kina og Russland [Sounding the alarm about the threat from China and Russia]. (khrono.no) <https://khrono.no/slar-alarm-om-trusselen-fra-kina-og-russland-tar-seg-inn-pa-heimkontoret/660690>

⁴¹ Panorama. The Norwegian government's strategy for cooperation on research and higher education with Brazil, Canada, China, India, Japan, Russia, South Africa, South Korea and the USA (2021–2027), https://www.regjeringen.no/contentassets/13e7862e6c064321af97fe0c58a8f7cb/f4462-b_panorama_strategi.pdf.

⁴² For example, the University of Bergen's *Guide in connection with collaboration with China* <https://www.uib.no/fia/135701/samarbeid-med-kinesiske-institusjoner-kontekst-og-refleksjoner> and the University of Oslo's online resources on China aimed at its own students and employees

⁴³ European Commission, Directorate-General for Research and Innovation, *Tackling R&I foreign interference 2022* <https://data.europa.eu/doi/10.2777/513746>

researchers in particular are targets for foreign intelligence services' attempts to gain access to research on artificial intelligence, quantum technology and biotechnology.⁴⁴

Nationally, there has been a focus on strengthening preventive security work related to information security, protection of personal data and export control, and the security perspective has become more explicit in research coordination. Clear guidelines for cooperation that address intelligence threats, academic freedom and ethical issues are a high priority for the Norwegian authorities. The EU and OECD have also placed these issues high on the agenda. For Norway, it will be natural to coordinate positions and practices with like-minded countries within these organisations.

6.4 Institutional and structural prerequisites

6.4.1 New forms of governance and management in academia

Higher education and research have experienced significant growth in recent decades and have undergone a number of major reforms. Chapter 3 of the OsloMet report «Et ytringsklima under press?» [A climate of expression under pressure?] provides an account of these changes,⁴⁵ some of which we will describe here.

Some of the new forms of governance and management at universities and university colleges may have come at the expense of more collegial forms of governance. This has an impact on the conditions for academic autonomy, and means academic staff are regarded more like ordinary employees.

The professionalisation and bureaucratisation of the sector has also blurred some of the dividing lines between academic and administrative issues, which may challenge academic freedom.

Furthermore, academia is now governed by a system of management by objectives and results, with funding schemes partially linked to the results achieved in research and education.⁴⁶ By not including dissemination as an indicator, the

governance system may be further undermining academia's dissemination activities.

Increased international cooperation and the development of a global labour market have led to various reforms and structural changes in the sector. Greater emphasis on international strategies represents a form of political governance that can at times come into conflict with academic autonomy. Academic staff must spend more time on teaching, pedagogical training and administrative tasks, meaning they have less time for research and dissemination.

The emergence of the student-centric «service university», more external requirements regarding quality standards in higher education, and rising expectations of participation in organised, externally funded research with user involvement all undermine the individual autonomy of the academic staff.

6.4.2 Foreign researchers in Norwegian academia

International cooperation on higher education and research is crucial to ensure high quality. This has resulted in a relatively high proportion of international academic staff at Norwegian universities and university colleges. This enriches Norwegian academia in a variety of ways, but can also affect the culture of dissemination within Norway in ways that can challenge academic freedom of expression.

Many foreign researchers learn Norwegian very quickly, adapt to Norwegian cultural and social norms, and disseminate knowledge and insights that enrich the public sphere in Norway. Others receive or take little language training, and are more focused on the international research community in which they also participate than the national social framework in Norway. Some are only passing through Norway on their way up the career ladder, and may receive less encouragement and have less interest in spending time on learning Norwegian and engaging in broad public dissemination activities. Others come from cultures where young researchers at the bottom of the academic career ladder do not engage in public dissemination or intellectual discourse.

These factors may affect the individual researcher's dissemination activities, and thus society's access to information. This development also has a linguistic dimension that affects dissemination in several directions: As research communities become more international, more of the research discourse is conducted in English. This

⁴⁴ The Danish Security and Intelligence Service (PET): Vurdering af spionagetruslen mod Danmark [Assessment of the espionage threat to Denmark]. December 2021. <https://www.pet.dk/Nyheder/2021/-/media/PETVurdering2022DK2pdf.ashx>

⁴⁵ The report *Et ytringsklima under press? [A climate of expression under pressure?]*

⁴⁶ See also section 5.2

is excellent – not least for people whose first language is English. However, many academics find it harder to think and express themselves in a foreign language. Some Norwegian researchers – and some foreign researchers from non-English-speaking countries – would probably be able to express themselves better and more precisely within academia and further afield if they received better training in scholarly English. Regardless of the quality, an unfortunate side effect of increasing Anglicisation of the academic communities is depletion of Norwegian as an academic and technical language. This has a negative effect on academic freedom of expression both in the public arenas within the various spheres of expertise, but especially in the transfer of academic knowledge out to society. It becomes more difficult for the individual researcher to communicate their knowledge and insights – and also raises the threshold for accessing academic knowledge for people outside academia.

In its consultative statement to the Commission, the Language Council of Norway has stated the following:

Precise dissemination of knowledge in Norwegian society requires good, clear Norwegian academic and technical language. In this way, well-functioning academic and technical Norwegian is a prerequisite for a well-functioning Norwegian public sphere. At the same time, the maintenance and development of good academic and technical language is also important to ensure the legitimacy of the universities and university colleges: by communicating research rooted in Norwegian society to a Norwegian-speaking audience, and making relevant contributions to society. In order for research to be accessible to society in this way, there must be systems that enable and encourage employees at the universities and university colleges to disseminate their research to a broader public audience, and that this dissemination takes place in Norwegian.

In autumn 2021, there was extensive debate in Norway about the proportion of foreign researchers in permanent and leading academic positions in the higher education sector in Norway. Among other things, the question was raised as to whether this might entail an influx of cultures of academic freedom of expression from countries that have different, and often less open cultures of cooperation and free speech in working life in general and also within academic institutions. What

implications will this have for academic freedom of expression in Norway, and how should this be addressed?

Little research has been done on dissemination activities. The studies that do exist indicate that about half of academics disseminate in broad news media.⁴⁷ Eagerness to engage in dissemination activities varies according to the audience and type of research results. Academics' willingness to communicate in news media and social media declines if the publication of their research findings might lead to negative reactions from their superiors or conflicts with their colleagues. Researchers are by far least willing to engage in dissemination of their research findings if these might be perceived as offensive to certain individuals or groups.⁴⁸ One study found small differences in dissemination activities between researchers born in Norway and researchers born abroad.⁴⁹ The Nordic Institute for Studies in Innovation, Research and Education (NIFU)'s Time Use Survey indicates that foreign researchers spend slightly more time on dissemination than Norwegian researchers.⁵⁰

Several challenges have been highlighted in the consultative statements the Commission has received on this issue. Examples are academic disciplines where understanding of special Norwegian interests in an international perspective is central, or where Norwegian language and insight into Norwegian history and society are important. In these disciplines, the teaching offered in Norwegian language, history and culture must be strengthened, and expectations that dissemination must be regarded as an integral part of the academic mission, in line with the other academic tasks, must be stated more clearly.

In some disciplines, native speakers of Norwegian may find that they have to do an excessive share of certain tasks, because these tasks require Norwegian language proficiency or because special Norwegian professional educa-

⁴⁷ Mangset, M., Midtbøen, A.H. Thorbjørnrud, K., Wollebæk, D., Fladmoe, A: (2021). Forskerne og offentligheten – om ytringsfrihet i akademia [Researchers and the public sphere – on freedom of expression in academia]. Institute for Social Research (ISF) <https://hdl.handle.net/11250/2759833>

⁴⁸ Ibid. p. 12–13

⁴⁹ I. Reymert «Controlling the Future of Academe: Academic and Managerial Logics in Professorial Recruitment», PhD thesis 2021.

⁵⁰ Time Use Survey 2021: *Longer working weeks, less time for research and development work*. Nordic Institute for Studies in Innovation, Research and Education (NIFU) <https://www.nifu.no/news/lengre-arbeidsuker-mindre-tid-til-fou/>

tion is required to teach certain compulsory subjects (for example, in law studies). Conversely, internal meetings that are primarily conducted in Norwegian (with all its various dialects) might exclude someone who is not fully proficient in Norwegian from fully participating in discussions about, for example, the distribution of tasks, resulting in the person in question ending up with what is left when everyone else has taken their pick.

The challenges that internationalisation can entail – be they in respect of the further development of Norwegian academic and technical language and dissemination, or in certain contexts related to safeguarding national interests and security – must primarily be addressed by strengthening the quality of the recruitment pool for academic posts in Norway. This work must start in schools. Other measures include strengthening Norwegian academic and technical language. These challenges cannot be resolved by limiting the recruitment of qualified international students or employees in academia.

Internationalisation is crucial for increased competency, increased innovative capacity and increased diversity. From this perspective, it can contribute to a richer, more varied exercise of academic freedom of expression. Norwegian universities do not score particularly highly in global rankings of internationalisation at academic institutions.⁵¹ Several factors indicate that more, not less, internationalisation is needed in the higher education sector in Norway. However, this must be done judiciously, taking into account the distinctive needs of the different disciplines, as well as the educational needs required to ensure a suitably qualified workforce in the future.

6.4.3 Temporary positions – employment – career

PhD positions, «post.doc.» research positions and entry-level or «tenure track» positions are, by definition, temporary or «fixed term» positions; and if these are included, the proportion of temporary employees in the higher education sector is very high. Even excluding these, the share of temporary employees in this sector is still 12.8 per cent, which is some 50 per cent higher than the general rate of temporary employment in the workforce as a whole (8 per cent).

⁵¹ Most international universities in the world 2022 <https://www.timeshighereducation.com/student/best-universities/most-international-universities-world>

Box 6.3 Ten Commandments For a Young Man Who Wants To Get Ahead

I

The first commandment's quite easy:
The majority is always right.

II

Always think what folk will say.
Side with the strongest, day by day.

III

When in doubt, just shut your trap
Until you see for *whom* they clap.

IV

Think what opinions you should hold.
Alone, you'll be out in the cold.

V

Don't give your lofty instincts rein,
But stick to what will bring you *gain*.

VI

Tell people what they want to hear;
Move quietly through every sphere.
(For truth brings sorrow on your head,
While daily lies earn daily bread.)

VII

Never walk upright. Sidle forth.
And warm yourself at every hearth.

VIII

Praise everybody to the skies;
A flock of friends will be your prize.
(This in-group paradise will be
Your best insurance policy.)

IX

Of gossip save up every bit
For your superiors' benefit.
(But not a hint from the consumer
Should reach the subject of the rumour.)

X

If you this last commandment heed,
Then your future's guaranteed:
Boldly espouse each cause in season,
But always act with prudent reason.
Stride bravely forward in life's war
One hour before your time – no more!

Jens Bjørneboe (English translation by Esther Greenleaf Mürer)

The institute sector has a higher share of external funding than the higher education sector, but has a lower rate of temporary employment.⁵² At the 35 institutes that are members of the Association of Norwegian Research Institutes (FFA), the rate of temporary employment is less than 1 per cent.⁵³

Several consultative statements from individuals and organisations point out that temporary employment can have a negative impact on academic freedom of expression.

In its submission to the Commission, the Norwegian Association of Researchers (FF) writes, among other things:

One of the biggest challenges to academic freedom is lack of job security. It remains the case that far too many researchers are employed in temporary positions. The ability of researchers to seek and disseminate knowledge – including knowledge that might be unpopular, in that it contradicts received wisdom or concerns strong business interests, etc. – will depend on them feeling that they are safe to do so. Temporary employment is particularly common in externally funded activities. Temporary employees are in a relationship of dependency vis-à-vis established researchers and heads of research at the institution. Situations may therefore arise where they refrain from challenging existing knowledge and instead conform for strategic, career-related reasons. This constitutes a restriction on their academic freedom, and can discourage risky research and the challenging of received wisdom.

Studies conducted by the Young Academy of Norway (AYF) show that junior researchers feel that their research careers are characterised by uncertain future prospects and unstable working conditions, and also feel insecure or too ill-equipped to apply for a job outside the research sector. The Young Academy of Norway (AYF) emphasises that:

The growing proportion of young temporary employees in Norwegian academia, combined with the fact that many of these are also international employees who may have a weak connection to other actors in Norwegian society (such as trade unions) compared with their employer, may serve to weaken academic freedom of expression, both real and perceived.⁵⁴

Scholarly publication and, to a lesser extent, teaching are important to be able to secure a permanent position and pursue a career in academia. This is not the case for dissemination, according to research by the Nordic Institute for Studies in Innovation, Research and Education (NIFU).⁵⁵ Dissemination activities are already often a low priority among career-focused young academics, because they believe it is not the best use of their precious time; however, it will be even worse if these activities are avoided because they are considered too risky, as the Norwegian Association of Researchers (FF) writes.

Among other things, the OsloMet report queries whether independence and uncompromising intellectual honesty are losing ground to a socialisation (and selection) of young researchers among whom career orientation, strategic adaptation and conformity are increasingly being encouraged and rewarded. They support this claim by stating that this can be both a sum effect of structural changes in the systems for research and higher education and a result of characteristics of general cultural developments and the coddling of children and young people, rendering them ill-equipped for the rough and tumble of public debate and criticism. The authors do not have sufficient knowledge to assert that this is in fact the case, but find that the question merits further attention in the form of both research and debate.

The Commission concurs. Adapting one's own expressed views and behaviour because advancing one's own career and an easy life are rated more highly than abstract values such as freedom and courage to express one's views is not unique to academia. However, in view of academia's broad civic mission, and especially the seeking of

⁵² Tellmann, S.m. et al.: *Karriere og arbeidsvilkår i norsk akademie. Resultater fra en survey blant vitenskapelig ansatte [Career and working conditions in Norwegian academia. Results from a survey among academic staff]*. Nordic Institute for Studies in Innovation, Research and Education (NIFU) report 2019:2 <http://hdl.handle.net/11250/2583279>

⁵³ Director of Institute: *Lever godt med bare faste stillinger [Doing well with only permanent positions]* (khrono.no)

⁵⁴ Young Academy of Norway (AYF) (2018). *Unge forskere i Norge. Karriereveier og ambisjoner [Young researchers in Norway. Career paths and ambitions]*. <https://akademiet-foryngreforskere.no/wp-content/uploads/2018/05/Ayf-UngeForskereiNorge2018.pdf>

⁵⁵ Reymert, I: «*Controlling the Future of Academe: Academic and Managerial Logics in Professorial Recruitment*», PhD thesis 2021.

truth and contributing to an enlightened public discourse, this kind of adaptation is particularly unfortunate. The Norwegian poet Jens Bjørneboe wrote a poem called *Ten Commandments for a young man who wants to get ahead* (see box 6.3). Perhaps it is the case that *too many* young and/or temporary employees at universities and university colleges are heeding these commandments.

6.4.4 The funding system

The funding system for universities and university colleges is described in section 5.3.2. Many of the consultative statements submitted to the Commission point out that the funding system does not promote dissemination activities, since it only rewards educational and research activities (and to a lesser extent sponsored and commission-based «BOA» activities). The Institute for Social Research (ISF) survey highlights lack of funding as by far the most important reason why academics fail to realise their research ideas.⁵⁶ For a more detailed discussion of the funding system, see section 7.3.2.

6.4.5 External funding

Several of the consultative statements the Commission has received suggest that externally funded activities (primarily commissioned research) can inhibit academic freedom of expression, particularly at research institutes. This may be related to:

- Researchers and academic communities not daring to be unpopular for fear of losing assignments. Defensive researchers mean society misses out on important knowledge.
- Accusations that researchers and experts are controlled by their clients, i.e. that their research integrity is compromised.
- Researchers and research groups that do large volumes of commissioned research not having time and space for free, critical research.
- Clients wanting to influence how the research is planned, described, designed and presented. This can be especially challenging if the results of commissioned projects do not align with the client's expected results.

By international standards, Norwegian universities and university colleges have a high level of direct funding from the state. The same also applies to the health trusts. Most of the external and competition-based funding comes from the Research Council of Norway (NFR), other public actors and the EU (see the overview in section 5.4). The scope of collaborative projects between universities and research institutes and the business sector varies, and in the natural sciences in particular, external funding constitutes a not-insignificant share of the total funding. This is mainly sponsored research. The institutions must remain aware of their role and responsibilities as academic institutions. User involvement is important, but can also have a negative impact; for example, it may lead to less power-critical research. It is important to have clear contracts that ensure – insofar as possible – the right to disseminate and publish the results and findings of the research. This is especially important in areas where there are conflicts of interest.

6.4.6 Norwegian in academia

There has recently been considerable debate about the use of Norwegian vs. English in academia in Norway. Some people argue that widespread use of English can create knowledge gaps and that Norwegian academic and technical language is deteriorating, while others argue that English must be used for their research and dissemination to reach a wider audience and to be able to communicate with their foreign peers. There is an overview of the status in this area in section 5.5.

The increasing number of international researchers in Norwegian academia may also pose a challenge in respect of the maintenance and development of well-functioning Norwegian academic and technical language. The Commission has also received other consultative input highlighting dilemmas and challenges related to increased internationalisation, which are discussed in section 6.4.2.

In its consultative statement to the Commission, the Language Council of Norway identifies three factors that are important for ensuring that research is communicated to and rooted in a Norwegian-speaking society. The first is development of Norwegian academic and technical language in line with developments in research in the various fields. The second is making provisions to ensure that employees have the time and resources to disseminate their research in Norwegian. The

⁵⁶ See the discussion in section 6.5.2 and in Mangset, M., Midtbøen, A.H. & Thorbjørnsrud, K. (eds.) (2022). *Ytringsfrihet i en ny offentlighet. Grensene for debatt og rommet for kunnskap* [Freedom of expression in a new public sphere. The boundaries of debate and the arena for knowledge]. Oslo: Universitetsforlaget. <https://doi.org/10.18261/9788215051017-2022>, chapter 9

Box 6.4

It would be highly regrettable if we end up in a situation where it is no longer possible to communicate academic findings and results to Norwegian society clearly and precisely.

Minister of Research and Higher Education Ola Borten Moe, interview in the daily newspaper Klassekampen, 13 November 2021.

<https://klassekampen.no/utgave/2021-11-13/vil-snu-spraktrenden>

third factor is related to non-Norwegian-speaking employees: Steps must be taken to enable them to communicate their research in Norwegian, preferably by them learning Norwegian, but also through the provision of translation, language editing and proof-reading services. One measure to maintain Norwegian as an academic and technical language is work to develop terminology and bilingual glossaries.

In their consultative statement, the Great Norwegian Encyclopedia (snl.no) has reported out that they frequently face challenges in recruiting experts for their work (see the discussion of snl.no in section 5.5). At some of the universities, they find that many of the experts they contact say no to dissemination via snl.no, mainly because they cannot or do not want to prioritise spending time on work that yields little reward. Snl.no points out that they need a system to be able to reward academics for their contributions and better registration in Cristin and other relevant registration systems.

In October 2021, 13 academics issued a petition in which they claimed that by disseminating knowledge, they are fulfilling one of the core tasks of academia.⁵⁷ Despite this, dissemination is largely a low-priority task at the institutions. Non-fiction books are particularly vulnerable in this respect. One of the 13 academics, Alexander Sandtorv, has highlighted the challenges for academic writers from a freedom of expression perspective:

Books are one of the most important arenas for dissemination of academic knowledge, they make important contributions to the public's understanding of the world, and they are the only place where longer, more complicated thoughts and ideas can be explored. Books are also particularly vulnerable, given the current structure in academia, both because they are so terribly time-consuming to produce, but also because it is not financially rewarding to write books and they do not «count» in the current bibliometrics-based funding system (the quantitative «tellekant» system). Many academic writers struggle to get everything done in their everyday working life, and I believe that this represents a freedom of expression problem. [...]

There are many solutions: for example, the sector could implement measures to ensure opportunities for our authors – perhaps the right to take unpaid leave to concentrate on writing, perhaps some of their teaching time could be ear-marked for dissemination and writing (5–10%), and perhaps the sector could simply start by mapping the conditions for dissemination, because, as far as I am aware, much of our current knowledge about dissemination is merely anecdotal.

6.5 Culture of free speech

6.5.1 Reactions from colleagues – difficult climate of debate

Several of the consultative statements the Commission has received cite colleagues' reactions as a main reason why academics do not want to or prefer not to engage in dissemination activities and exercise their academic freedom of expression. Negative reactions can be explicit or implicit. Being «silenced into submission» can also be very unpleasant and make further attempts at dissemination seem pointless or at least very unappealing – and certainly not a high priority.

The OsloMet report states:

A lack of support from above and a lack of solidarity among researchers – for example, in different disciplines or across generations – as well as a general scepticism towards colleagues sticking their necks out have been highlighted as general obstacles to good research dissemination (Heuman et al., 2020; Kierulf, 2017; Wig & Svensen, 2016). These kinds of internal obstacles take on even greater signifi-

⁵⁷ Aftenposten: Opprop: i frykter at offentligheten går glipp av viktige bøker [A call to arms: We fear that the public is missing out on important books]. <https://www.aftenposten.no/meninger/debatt/i/pWw9zj/opp-rop-vi-frykter-at-offentligheten-gaar-glipp-av-viktige-boeker>

cance in situations where researchers are publishing controversial findings or assuming a contentious position in a public debate.⁵⁸

A survey from the Institute for Social Research (ISF) shows that half of the academics surveyed believe that researchers should avoid participating in debates in the news media on topics they are not doing research on.⁵⁹ This provides a very narrow scope for dissemination. It is far narrower than what researchers are entitled to voice opinions on, from a legal perspective, and it is also much narrower than the knowledge sharing and bridge building between academia and the broader public spheres that academic freedom of expression is intended to ensure. The survey also reveals that the research community opposes dissemination in several ways. It is not anonymous online trolls, but other researchers and colleagues who are most often behind unpleasant comments and threats to academics.⁶⁰

These findings underline the impression the Commission has gained from a number of consultative statements of collegial pettiness and a poor culture of free speech in academia.

Academic freedom of expression enables sharp exchanges of opinion. However, condescension, ridicule, marginalisation and bias do not contribute to constructive debate between genuinely dissenting voices, as they often result in the people who are being attacked withdrawing and not feeling capable of or willing to continue disseminating. Academics too can get carried away by their feelings and pride when they come across expressions from other academics with which they disagree, and may sometimes respond in the spur of the moment rather than after sober, considered reflection. This can lead to upset and conflict, rather than a constructive, truth-seeking exchange of opinions. It is an element of the responsibility of academic expression to debate with colleagues with whom one disagrees in a manner that is as open, factual and honest as possible. The goal is to encourage more, not fewer,

views to be shared. To avoid misunderstandings and unpleasantness in the public debate, academics should adhere to the golden rule from two-way radio communication: think, press, speak; which online might translate into: think, type, send.

There is also a difference between reactions from different types of peers – the more senior and established they are, the more demanding it can be to challenge them. Students are in an asymmetrical relationship with their supervisors and academic staff in general. Reactions from superiors raise some particular issues. Negative or unpleasant comments from superiors may have several dimensions in terms of labour law. They can be regarded as reprimands with more real power behind them than the opposition that academics receive from their colleagues, and they may have a stronger silencing effect. In uncomfortable exchanges of opinion between colleagues, academics who also have management roles must take extra care to ensure balance between their roles. Managers are responsible for maintaining a good working environment and preventing, for example, harassment, but they also have a responsibility to ensure that academic freedom of expression, including sharp exchanges of opinion, can take place without intervention from above. Intervening in heated exchanges can easily create the impression that the manager is taking sides with one party against another. We will return to this in section 7.4.2.

There is also a broad spectrum in terms of unpleasant expressions. Many are uncomfortable «only» because they constitute public opposition, sometimes in quite sharp forms. The only real way to deal with these kinds of public battles is counter-argumentation or simply letting it go and moving on, both of which get easier with practice. This is discussed in more detail in chapter 7.4.3.

Some unpleasant expressions are illegal. The most serious, such as criminal threats, stalking and hate speech, can be reported to the police. There are also other statutory and institutional norms in place to safeguard the working environment and avert some uncomfortable interactions. Harassment and other forms of improper conduct are prohibited under the Working Environment Act and the Equality and Anti-Discrimination Act. The Norwegian Labour Inspection Authority lists the following as examples of expressions that may, depending on the context and duration, be regarded as harassment: Being reprimanded in earshot of others, being ignored, being ridiculed, the withholding of necessary information, condemnation no matter what you do, blaming and

⁵⁸ The report *Et yringsklima under press? [A climate of expression under pressure?]*

⁵⁹ Mangset, M., Midtbøen, A.H. Thorbjørnrud, K., Wollebæk, D., Fladmoe, A: (2021). *Forskere og offentligheten – om yringsfrihet i akademien [Researchers and the public sphere – on freedom of expression in academia]*. Institute for Social Research (ISF), p. 9.

⁶⁰ Mangset, M., Midtbøen, A.H. Thorbjørnrud, K., Wollebæk, D., Fladmoe, A: (2021). *Forskere og offentligheten – om yringsfrihet i akademien [Researchers and the public sphere – on freedom of expression in academia]*. Institute for Social Research (ISF), p. 18

shaming, hurtful joking and teasing. Many institutions have whistleblowing schemes and «speak up» systems that make it easy for people to report bullying and harassment. These schemes are important. However, they can also be abused to try to silence legitimate expressions that some people find controversial or offensive.

6.5.2 Culture of conformity

Academic institutions, like society at large, are very aware of and pay close attention to the need for diversity and equality. Diversity in this context is often linked to the bases for discrimination laid down in the Equality and Anti-Discrimination Act.⁶¹

A kind of diversity that receives less attention, but that is also important to safeguard academic freedom of expression is diversity of opinion. The pursuit of truth also presupposes the exchange of opinions between different types of views, class backgrounds, values and ideological positions. In the absence of opposing views, «echo chambers» tend to develop, where confirmation bias is amplified, and like-minded people simply continue in the direction they were already heading.

Drivers of conformity can come from within, in the form of norms and pressures within academic communities, through recruitment, «academic families» and echo-chamber effects that also raise the bar for dissent. They can also come from the outside, in the form of guidelines and pressures from public authorities and private clients, the Research Council of Norway and other actors that have an influence on the way research, teaching and dissemination are performed.⁶² A culture of conformity is not necessarily found only *within* academia. This kind of culture can also develop in the interaction between academia and the public administration and/or other social actors. This can make it even more difficult to voice divergent opinions.

Diversity of opinion is important for the individual's continued growth and education, and for truth-seeking research and student communities. As discussed in section 3.2, it is crucial to counter

the cognitive biases we are all prone to. An absence of ideological or political conformity is also important for society's confidence and trust in academia in general and research-based knowledge in particular. Although academic work does not require representativeness or democratic anchoring, major differences between the political composition of the population as a whole and that of academia may easily influence people's view of the objectivity of research. Academia's potential to ensure quality and to contribute to increased social mobility in society will also be weakened by a culture of conformity that limits the pool of talent.

Surveys indicate that Norwegian researchers are clearly more left-wing and eco-oriented than the population as a whole.⁶³ This tendency applies to a wide range of disciplines and fields, but is most evident in the humanities and social sciences. The political parties the Red Party (R), the Socialist Left Party (SV) and the Green Party (MDG) are overrepresented, while the Progress Party (FrP) and also the Conservative Party (H) are underrepresented.⁶⁴

Researchers are less critical of immigration, more concerned with environmental protection than economic growth, more positive about state governance and public consumption, and more concerned with equality than the population as a whole.⁶⁵

There is no easy solution for the challenges ensuing from conformity culture. However, awareness of the issue and conscious efforts to ensure greater latitude of expression and diversity of opinion are crucial to counteract this kind of culture. Thinking related to the importance of diver-

⁶¹ Pursuant to section 6 of the Equality and Anti-Discrimination Act, discrimination on the basis of «gender, pregnancy, leave in connection with childbirth or adoption, care responsibilities, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression, age or combinations of these factors is prohibited. 'Ethnicity' includes national origin, descent, skin colour and language.»

⁶² The report *Et yringsklima under press? [A climate of expression under pressure?]*

⁶³ In the Norwegian Association of Researchers (FF)'s 2017 survey among its members, more than 56 per cent stated that they would vote for the Red Party (R), the Socialist Left Party (SV) or the Labour Party (Ap), compared with just under 36 per cent in the general population. <https://www.forskerforum.no/slik-stemmer-norske-forskere/> A recent survey identified the same tendency: «While a majority of the population voted for one of the five central or right-wing parties – the Centre Party (Sp), the Christian Democratic Party (KrF), the Liberal Party (V), the Conservative Party (H), the Progress Party (FrP) – in 2017, this proportion was less than a fifth among social scientists and academics in the humanities». See Mangset, Midtbøen, Thorbjørnsrud, Ytringsfrihet i en ny offentlighet [Freedom of expression in a new public sphere] (2022) p. 139 f. <https://doi.org/10.18261/9788215051017-2022>

⁶⁴ The Conservative Party is better represented in medicine and agriculture, aquaculture and veterinary science.

⁶⁵ Mangset, Midtbøen, Thorbjørnsrud, Ytringsfrihet i en ny offentlighet [Freedom of expression in a new public sphere] (2022) p. 139 f. <https://doi.org/10.18261/9788215051017-2022>

sity should be based on a broad concept of diversity, where diversity of opinion and ideological diversity are also included.

Attempts to welcome opposing voices and discourage conformity can sometimes tip over into another challenge. One example of this is inviting individuals or groups with extreme views to voice their opinions, primarily to avoid being accused of conformity. This may result in these kinds of views receiving a disproportionate amount of attention in the debate in view of the differences in the knowledge base on which the two positions rest. There is no standard formula to determine when more voices and greater balance are important, and when false balance actually serves to undermine, rather than contribute, to the search for truth. However, attention must be paid to both issues to be able to make good assessments in specific situations where this question arises.

6.5.3 Cancel culture, deplatforming, marginalisation

Cancel culture, deplatforming and ostracising are all concepts used to describe the process whereby academics with «divergent» opinions are rejected by the academic community and are prevented from participating in the public debate. Examples include not being invited to seminars or projects in fields where their research is relevant, invitations to debates or teaching being withdrawn as a result of something they have said or published, boycotting of certain teachers or teaching, and attempts to get sources of funding or employers to intervene in their research or teaching. The reasoning behind such attempts to silence these voices is that the people who want them gone find the views so outdated, dangerous, hateful etc. that they believe they have no place in the public sphere. In this respect, they want to interfere with the freedom of information of their colleagues and fellow citizens by curating what they are permitted to hear.

Cancel culture can take the form of organised campaigns of varying degrees, where academics are denounced as fascists, communists, haters, etc., or by illegal acts such as threats and harassment (see section 6.5.5). It can come from outside academia, or from within – from colleagues, administrative staff or students – and can target both staff and students.

The terms «cancel culture» and «deplatforming» describe real phenomena that exist in society today. However, because they are used in very varying ways, even the terms themselves are con-

troversial and have become politicised. The opposing fronts can be roughly outlined as follows: Individuals and groups who feel their views are never heard or heeded, who are not invited because their views are uninteresting or they are bullies, or who otherwise experience opposition to what they stand for as unreasonable see cancel culture everywhere. Individuals and groups who think the public sphere is just fine without voices or views they themselves believe to be overrepresented, hateful or dangerous consider the claims of cancellation to be exaggerated or that cancel culture does not exist.

Cancel culture is characterised by a distorted reading of the positions or views with which one disagrees. Expressions are taken out of context and presented in ways that make them appear to have a different – and stronger or worse – meaning than they originally had. Historical contexts also become irrelevant, if what is regarded as the morally superior principle is deemed to be important enough. This may lead to demands to remove historical monuments or erase facts that are no longer considered appropriate in a more equal, fairer era. For example, in 2021, a municipal district committee in Oslo urged the Natural History Museum to remove a plaque on a bench commemorating Carl von Linné in the Botanical Gardens.⁶⁶

This phenomenon has received considerable attention in academia in the USA, but we have also seen signs of it here in Norway, including in the debate on the proportion of foreign researchers in Norwegian academia, discussions within gender research, and the debate on climate change. Cancellations and campaigns to marginalise voices are unpleasant for the academics they affect. They also have obvious chilling potential for others engaged in research, teaching or dissemination on topics where these kinds of campaigns are likely to be used. In the USA and countries where academics' employment protection is weaker, and where projects are more susceptible to pressure from their sources of funding, these kinds of campaigns can have major consequences for individual researchers and research fields. While these vulnerabilities are less pronounced in Norwegian academia, we nevertheless need to be aware of the challenges here as well.

In several places, students have protested against controversial speakers or against lecturers who the students believe have crossed a line for

⁶⁶ Minutes from a meeting of Gamle Oslo municipal district committee, meeting of 17 September 2020, item 100/2020.

what it is acceptable to say in a lecture theatre. Students have also been behind a number of controversial cases in Norway, such as the case at the University of Bergen where a student lodged a complaint about a lecturer who made a joke about Germans. Students are of course part of the academic community and have both general freedom of expression and academic freedom of expression. Students in Norway also have a statutory right to be heard in all questions concerning students at educational institutions, and the institutions have a duty to provide conditions that facilitate this (section 4-1 of the Universities and University Colleges Act). The right to academic freedom and freedom of expression may affect the students' right to be heard. The fact that students want to exert an influence on the content of their education must be regarded as both legitimate and desirable, as long as it is done using arguments or instruments that enable continued genuine exchange of ideas and debate.

On a highly simplified political–ideological left-to-right scale, cancel culture is often portrayed as a left-wing phenomenon. One frequently cited example is a group of students' demand for «decolonisation» of the curriculum at the Oslo National Academy of the Arts in 2020.⁶⁷ However, demands that certain methods or views should be dropped can both originate from and affect research and academic expressions along every part of this scale. Examples of «right-wing» cancellations are conservative school boards in parts of the USA that have prohibited teaching on critical racial theory and gender identity. In 2022, the «Waste Ombudsman» (a satirical Facebook profile «Sløsriombudsman» that «investigates how bureaucrats and politicians wasted your tax money») issued an open appeal to the University of Oslo, OsloMet – Oslo Metropolitan University and the state proclaiming that a PhD candidate he interpreted as rehabilitating racial biology in his doctoral work ought not to have been granted funding.⁶⁸

Cancel culture runs the risk of creating a situation where academic opinions are not voiced in the public domain and/or are dismissed by a massive academic majority who believe that they, and

Box 6.5

As a university college professor, I have a responsibility to take part in the public debate. My main goal over the years has been to share my knowledge with a broader audience in the debates in society.

Professor of philosophy Einar Øverenget in a portrait interview in the Norwegian daily newspaper *Aftenposten*, published on 8 January 2022.

<https://www.aftenposten.no/amagasinet/i/Xqpaaw/politikere-og-presse-har-sviktet-i-pandemien-mener-filosof-einar-oever>

only they, are the stewards of the truth. In these kinds of cases, there is also a tendency for the vast majority to attack the «player» (i.e. the researcher, through ridicule, intimidation, etc.) and not the «ball» (i.e. the idea propounded), which ought to be met with relevant, objective counter-arguments. No matter how common cancel culture is, fear of it can have a significant chilling effect on academics' eagerness to research, teach and disseminate freely.

The negative aspects of cancel culture should nevertheless not be exaggerated. If panels or teaching are organised in ways that upgrade peripheral or less well-founded positions, this may lead to false balance, as discussed in sections 6.2.5 and 6.5.2.

Criticism of plaques on benches, curricula and doctoral projects for a variety of different reasons is perfectly legitimate and can even constitute important use of both general freedom of expression and academic freedom of expression. What distinguishes the methods used by cancel culture from the ordinary use of freedom of expression to disagree with another's opinion is their goal: When the goal of opposition is the continued free exchange of dissenting opinions and ideas from multiples sides, it can help ensure, not impede, everyone's right to freedom of expression and to seek the truth. When the goal is to exclude certain views from the public sphere or teaching, because they are regarded as undesirable, stupid, dangerous or inappropriate in some other manner, this kind of opposition will prevent the free exchange of opinions and ideas that is a prerequisite for the pursuit of truth.

⁶⁷ Aftenposten: KHiO-studenter krever «avkolonisering» av pensum [KHiO students demand «decolonisation» of the curriculum]. <https://www.aftenposten.no/kultur/i/e8Agdg/khio-studenter-krever-avkolonisering-av-pensum>

⁶⁸ Nettavisen: Ikke gjør rasebiologi greit igjen [Don't make racial biology OK again]. <https://www.nettavisen.no/norsk-debatt/ikke-gjor-rasebiologi-greit-igjen/o/5-95-368040>

6.5.4 Populism, politicisation and misinformation

The climate of free speech is influenced by the fact that political discussion – and not just that part of the public debate that takes place on social media – is increasingly dominated by populist trends and perceived polarisation. The developments do not necessarily correspond to people's actual perceptions.⁶⁹ Nevertheless, there is little doubt that the arena of expression, and consequently academic freedom of expression, is under pressure. Populism exists at both ends of the political spectrum, albeit with very different motives. It has also gained something of a centrist–populist superstructure in political terms, in that the central parties appear to be more concerned with continuously creating policies that appeal to «ordinary people» than designing more predictable, long-term policies rooted in ideologies. One aspect of populism, no matter where it comes from, is an us-and-them portrayal of the «people» and the «elite». This vague, often opportunistically defined «elite» encompasses traditional authorities – not only the state, but also «out of touch» knowledge-producing communities such as academia.

The OsloMet report identifies four manifestations of populist trends that can affect academic freedom of expression.⁷⁰

- populist currents can dominate or promote a negative and aggressive attitude towards researchers and academia
- populist parties can challenge academic freedom from positions of power in the political system
- populism can pose an indirect threat to academic freedom by challenging the time-honoured understandings of liberal democracy that form the foundation of science's social contract and relative autonomy in Western countries
- that important decision-making processes in society are depoliticised and delegated to more or less closed networks of experts and bureaucrats.

It is difficult for academia to do much about several of these forms of influence. However, it is

⁶⁹ NRKbeta: Blir Norge mer polarisert? [Is Norway becoming more polarised?] <https://nrkbeta.no/2018/09/21/blir-norge-mer-polarisert/>

⁷⁰ The report *Et yringsklima under press? [A climate of expression under pressure?]*

important to be aware that they exist, how they work and what increased demands this places on academics, not least when they are acting as the public face of academia through dissemination activities.

One aspect of this is dissemination into «hostile» public spheres that for various reasons distrust knowledge and science, and which equate scientifically quality-assured information with politicised, and often erroneous «knowledge».

This kind of dissemination places particular demands on the academics' ability to remain composed and their understanding of which forms of dissemination will have a trust-building and enlightening effect, and which might backfire and undermine confidence in scientifically quality-assured knowledge.

First, this presupposes that academics must comply with the fundamental rules of fair argumentation – even if the parties they are arguing against do not. The more academics who fail to do this when communicating and discussing in public, the more likely it is that people outside academia will become sceptical to science as a project and research results as a source of knowledge.

In addition, they must communicate in a way that will get people to remain more open to new knowledge, as opposed to simply seeking confirmation of what they already believe. Prejudice cannot be cured by knowledge alone. Dissemination of knowledge into biased or prejudiced public spheres requires insight and training. We describe some of the training needs this corresponds to in section 7.4.3.

6.5.5 Harassment and threats

An array of developments has resulted in the climate of debate in society generally having become harsher. There are currently «battles» in many public spheres, including edited channels, about which views should be allowed. Nevertheless, it is primarily since unedited media and platforms started to form central parts of our common public spheres that the impression of a harsh climate of debate has taken root. It is we humans, with our weaknesses and cognitive biases that are the cause of this development, jollied along by algorithms that reward emotion-driven and emotion-generating content over considered, nuanced, factual and truth-seeking content.

This kind of intimidation can range from ridicule and insults to aggravated threats. Some of it is illegal – such as aggravated threats, stalking and aggravated harassment, hate speech, incite-

ment to a criminal act, violation of the right to a private life and defamation. These expressions may be a matter for the police or the courts. However, most expressions that might be called «harassment and threats» in everyday speech are not unlawful, regardless of unsettling they might be. You cannot seek help from the police against them; instead they must be dealt with in other ways.

Even if the intimidation a person is exposed to is within the law, it can be very unpleasant. If it is shared widely or more people join in, the opposition can feel massive and overwhelming – there is nothing you can do about it. While this phenomenon might be expected for people who voice controversial opinions, it can also affect people who only participate in the public sphere with legitimate, important and uncontroversial views. Moreover, in many cases, the unpleasant comments come from the person's colleagues and peers.⁷¹ This naturally dampens people's eagerness and willingness to take positions publicly and even participate in any kind of debate whatsoever. For politicians, this problem is so intrusive that the security services and the police regard it as a threat against democracy.⁷² For academics, it is also a threat to our common search for truth.

One aspect of this challenge is that it can also be misused to silence legitimate and important opinions: By defining fact-based and legitimate views, for example on gender or immigration as «hate speech» or phobias, academics who do research on or convey divergent views can be marginalised and excluded from debates.

What to do about what actual intimidation and threats is a highly topical question at the moment.⁷³ It is being discussed on many levels, ranging from the political regulatory authorities at the supranational and national level, via the Freedom of Expression Commission, to the parties, communities and citizens who experience harassment. We identify some measures that academic institutions and communities can use to safeguard

academic freedom of expression in the face of intimidation and threats in section 7.4.3.

6.5.6 Summary: Self-censorship

Most of the challenges we have described in this chapter do not bear the hallmarks of censorship. It is not a person in a position of power refusing to let others impart or receive information about whatever they want. They are not linked to problems with freedom of expression per se, but with the arena of expression. In varying ways, they have a dampening effect on what academics want to share. In this way, they contribute to the most effective form of censorship: self-censorship.

Self-censorship may be due to something as simple as dissemination not being worth the time and effort it will take. Time is a scarcity. And when the only thing that really counts when trying to get ahead in academia is scholarly publication and teaching, there is no reason for academics to spend their precious time on anything else. Why disseminate if it will slow your career trajectory?

Self-censorship may also be caused by various forms of opposition, making it dangerous, unpleasant or burdensome to exercise one's academic freedom of expression. Opposition can be regarded as a scale running from unlawful acts, creating a fear that is clearly unacceptable (for example, threats) to mild unpleasantness that can be chalked up to «the inherent discomfort of life» (for example, harsh but fair public criticism).

There is major variation in terms of the challenges the individual considers to be so unpleasant that they self-censor and do not engage in dissemination. Academics, like other people, have different personal limits. It is often very challenging and uncomfortable to stand for a view that goes against what everyone else in a group thinks. This may be even more uncomfortable for academics who depend on acceptance and respect within their academic communities. At the same time, this particular discomfort is a prerequisite for conducting academic activities at all, and a key task for academic communities must be to culti-

⁷¹ Mangset, M., Midtbøen, A.H. Thorbjørnrud, K., Wollebæk, D., Fladmoe, A: (2021). Forskerne og offentligheten – om ytringsfrihet i akademia [Researchers and the public sphere – on freedom of expression in academia]. Institute for Social Research (ISF), p. 18 <https://hdl.handle.net/11250/2759833>

⁷² The Police Threat Assessment 2021, Norway. <https://www.politiet.no/globalassets/04-aktuelt-tall-og-fakta/politiet-trusselvurdering-ptv/2021-02-12-o-ptv-2021.pdf> and the Norwegian Police Intelligence Service's Threat Assessment 2021 – The threat to dignitaries. <https://www.pst.no/alle-artikler/trusselvurderinger/nasjonal-trusselvurdering-2021/#Trusselen%20mot%20myndighets%C2%ADpersoner>

⁷³ See, for example, the UN Strategy and Plan of Action on Hate Speech <https://www.un.org/en/genocideprevention/hate-speech-strategy.shtml>; the overview page on the Norwegian government's strategy against hate speech <https://www.regjeringen.no/no/tema/likestilling-og-mangfold/likestilling-og-inkludering/regjeringens-arbeid-mot-hatefulle-ytringer/id2510986/> www.stopphatprat.no; the Council of Europe's No to Hate Speech campaign <https://www.coe.int/en/web/no-hate-campaign>; and Friedrich Ebert Stiftung's overview of European strategies <http://library.fes.de/pdf-files/dialog/17431.pdf>.

vate and reward debate: Science can only be developed by individuals being able and willing to challenge established ways of thinking and supposed truths. And an enlightened society and knowledge-based public spheres require that someone – and preferably many people – disseminate knowledge out from the institutions and par-

ticipate in discussions outside academia. This means that academics must be aware of and control their natural instinct to self-censor, and they must accept and tolerate a certain level of discomfort and still continue to engage in dissemination activities.

Chapter 7

Measures

7.1 Governance and awareness raising

In this chapter, the Commission proposes a number of measures to strengthen academic freedom of expression. The proposed measures are based on the descriptions of challenges in chapter 6 and other available sources of knowledge. The aim of the measures is to ensure that academic freedom of expression can contribute to the realisation of the ideals highlighted in section 3.2.

Not all of the challenges in chapter 6 are addressed by the measures proposed here. Some of the challenges are due to factors outside academia and are therefore outside the Commission's mandate. While some challenges can be resolved with specific instruments, such as laws and governance tools, others are of such a nature that they can only be «resolved» through sustained deliberation and discussion within academia and in society at large.

This is reflected in the fact that the measures are primarily aimed at the regulations and system of governance for academia, the academic institutions, managers and employees in the sector, and the authorities. It is more difficult to propose measures to address the challenges that academic freedom of expression faces from outside the sector. These are of such a nature that it is difficult

for both the academic community as a whole and the individual academic institutions to protect themselves against them. As a society, we have a shared responsibility to support our academic institutions, their staff and students. This responsibility lies not least with the political authorities and the media. Moreover, it will benefit these institutions to join forces with academia in efforts to seek truth and promote free speech.

As stressed in section 6.1, our point of departure is that many of our academic staff and students could do more dissemination work and make a better contribution to academic freedom of expression. This goal can only be achieved if the entire sector feels and assumes a responsibility for ensuring that the dissemination of knowledge and active, knowledge-based participation in the broader public spheres become an integral part of academic work.

7.2 Regulations

7.2.1 Introduction

As described in section 5.1.1, academic freedom of expression enjoys strong protection pursuant to Article 100 of the Norwegian Constitution and Article 10 of the European Convention on Human Rights. The challenges described in chapter 6 are primarily due to actual circumstances, as opposed to legal factors. Freedom of expression is well protected; it is the arena of expression that is under pressure.

Changes to rules will therefore only be able to have limited effect. That said, where legislation already exists in an area, it is important that it is as precise as it can be. This is partly to ensure that the law has the intended legal effects, and partly to ensure their democratic foundation. Unclear rules are unfortunate, both legally and democratically. They are particularly unfortunate in the field of freedom of expression. If we imagine the space for protected expressions as a circle in which the statutory boundaries of legal expressions define

Box 7.1

It is the debate that the report sparks and the practical work it will trigger throughout Norway that will provide the greatest benefit. Science must rise up in the battle for the truth in a world where alternative facts, logarithms and hidden agendas can easily proliferate.

Gunnar Yttri, Rector of Western Norway University of Applied Sciences, article in the online newspaper for higher education and research Khrono on 29 December 2021.

<https://khrono.no/framifra-i-kvardagen/645622>

the perimeter, uncertainty about these boundaries will make it difficult to discern what constitutes a protected expression. For example, if the boundaries can be understood as being more narrow than what was intended, the arena of expression will be perceived as smaller than it actually is. People might then withhold expressions that they could legally have made, and the public would be denied access to the ideas that were expressed.

Further, it can be assumed that the more conscientious people are, the stronger this effect becomes. It can also be assumed that people who are less conscientious would be less affected. This would result in a relatively greater loss of the more enlightening and nuanced voices.

We propose amendments to only one statutory provision, namely section 1-5 of the Universities and University Colleges Act. We find that it should be stipulated more clearly how it protects academic freedom of expression, who is responsible for safeguarding this freedom, and how.

We have also looked at some of the provisions in other Acts of law that impact academia, which are mentioned in section 5.1.3. We are not proposing amendments to these Acts, as these amendments would also have effects far beyond our mandate. Since we have received consultative statements claiming that several of these provisions may affect academic freedom of expression, we identify in section 7.2.3 how some of them pose challenges because they are unclear or can be misunderstood for other reasons. The rationale behind this is to provide ideas for other or subsequent reports or revisions that assess these provisions.

7.2.2 Amendments to the Universities and University Colleges Act

Academic freedom is currently protected in section 1-5 of the Universities and University Colleges Act. We propose five amendments to this provision. These amendments have four main objectives:

1. To clarify the institutional responsibility for the staff and students' academic freedom
2. To specify that the institutional responsibility entails ensuring training in and the prerequisites for staff and students to be able to exercise academic freedom, including academic freedom of expression
3. To clarify that the academic freedom from external instructions and control also applies to the dissemination part of the academic tasks

4. To promote the individual right, and responsibility, to conduct academic dissemination.

The proposed amendments are highlighted in italics in the current statutory text, and are explained in more detail below.

Section 1-5 *Academic* freedom and responsibility

(1) Universities and university colleges must promote and safeguard academic freedom, *and those who exercise it*. The institutions are responsible for ensuring that teaching, research and academic and artistic development work maintain a high professional level and are conducted in accordance with recognised scientific, artistic, educational and ethical principles.

(2) In other respects, universities and university colleges are entitled to establish their own academic and value basis within the framework laid down in or pursuant to law.

(3) *Universities and university colleges must ensure that staff and students receive adequate training in and have the prerequisites for the exercise of academic freedom, including academic freedom of expression.*

(4) Universities or university colleges may not be instructed regarding

- a) the academic content of their teaching
- b) the content of research or artistic or academic development work
- c) *the content of dissemination*
- d) individual appointments.

(5) Each person teaching at institutions subject to this Act has an independent academic responsibility for the contents and plan for the teaching within the framework that is determined by the institution or that follows from statutes or regulations pursuant to statutes.

(6) A person appointed to a position where research or academic or artistic development work is part of the duties, is entitled to choose the topic and method for his/her research or development work within the framework that follows from the employment contract or a special agreement.

(7) *A person covered by the fifth or sixth paragraph has the right and an academic responsibility to conduct dissemination.*

(8) Universities and university colleges must ensure transparency regarding the results of research or academic or artistic development work. Anyone appointed to a position as mentioned in the fifth paragraph is entitled to publish their results and must make sure such publication takes place. The relevant research basis must be made available in line with good practice in the

field. The board may consent to postponed publication when required for legitimate reasons. No permanent restrictions in the right to publish results can be agreed or stipulated beyond what follows from statute or pursuant to statute.

Introduction

The proposed amendments build on the assessments of both the Universities and University Colleges Act Commission (the Aune Commission), and this Commission. In those cases where our proposals follow the Aune Commission's proposals, we refer to Aune Commission's reasoning.

The proposed amendments are aimed at both institutional and individual responsibilities. The difference between these two determines who is covered by which proposed amendments:

It is not only academic staff who need protection of their academic freedom and freedom of expression – the students do as well. Together, these two groups constitute the academic community, which relies on academic freedom and academic freedom of expression. In many cases, these two groups will also do research and teach together.

However, the groups differ from each other in some key respects: the students are in education and training, and they are not employees pursuant to labour law.

The individual responsibility for dissemination is one of the work tasks of academic employees. The individual freedom in our proposal for a new seventh paragraph should therefore only be formulated as a right and responsibility for academic staff. By contrast, the institutional duties to safeguard the academic freedom and freedom of expression of academics – the amended first paragraph and new third paragraph – should also apply to students.

In connection with the wording, the Commission has given priority to using concise, clear language, and consistency with the formulations in the other provisions of the Act.

The heading: The amendment from «*faglig*» [professional, academic, technical] to «*akademisk*» [academic] in the section heading in Norwegian is intended to better capture the breadth of what is regulated by section 1-5. Irrespective of this, with the amendments proposed by the Commission, the provision will address most aspects of academic freedom and responsibility – both institutional and individual, with regard to teaching, research and academic and artistic development work and dissemination.

One challenge with this proposal is that in Norwegian, section 1-1 (c) of the Universities and University Colleges Act uses the formulation «principle of academic freedom», using the word «*faglig*» instead of «*akademisk*». However, most people would interpret this provision as referring to academic freedom in the broadest sense. This can be resolved by also amending section 1-1 (c), but we will leave this question to any further review of the Act.

The addition to the first paragraph: This addition applies to the academic institutions. It clarifies the institutions' responsibility for individuals who exercise academic freedom.

This formulation originates from the Aune Commission, but differs on one point. While the Aune Commission proposed the addition «and the employees exercising it», our proposal replaces «the employees» with the broader «those». We believe it is important to emphasise that the institutional responsibility for the individuals who exercise academic freedom covers not only the staff, but also the students. They are a central part of the academic community. The overall institutional responsibility for academic freedom should therefore also encompass them.

As discussed in section 5.1.2, the Aune Commission was concerned with highlighting the institutional responsibility to defend and support employees in a harsher climate of debate.¹ This need is also central to our mandate and work (see sections 2.1 and 6.5). The Aune Commission stated that the current provision already implies that «the institutions' statutory responsibilities include supporting their employees in such situations» (in this context, «such» means when employees are subjected to targeted campaigns, intimidation, harassment, etc.). At the same time, the Commission also accepted that developments in society may provide grounds to emphasise further the responsibility of the institution's management «to protect the staff from bullying and intimidation». The Commission also held that the clarification might «serve to protect individual employees from being subjected to sanctions from the employer in a situation where the employee has exercised their academic freedom of expression and faced reactions that the management finds unpleasant».

This proposal from the Aune Commission has not been implemented. This is because the Ministry found that the clarification would not entail a material change.² The Ministry did however

¹ Official Norwegian Report (NOU) 2020: 3, section 15.3.4

stress that new technology and changes in the climate of debate are creating new challenges for academic freedom and responsibility, and that they would appoint an expert group – this Commission – to investigate these issues.

We understand the Ministry's objection, but have reached a different conclusion regarding the legal and practical effects of the proposed amendment. The addition clarifies that the institutions are responsible not only for safeguarding academic freedom as an abstract concept, but also the individuals who exercise it. This constitutes a material change: Their exercise of academic freedom must be both safeguarded (against attacks) and actively promoted (by appropriate measures – such as the measures in the Commission's proposed new third paragraph and training as outlined in section 7.4.3, for example).

This responsibility can to a certain extent be derived from the current provision read in the context of the institutions' responsibilities as an employer, but the content of these responsibilities has not been discussed and precisely defined. Regardless, a legal interpretation is of little use if the institutions do not follow up on these responsibilities in practice.

Although the addition does not stipulate specific legal effects, it establishes a positive duty for the institutions that may be of significance in, for example, labour law assessments. Duties without specific legal effects are not a new invention. A parallel example to clarify this is the definition in human rights law of «positive duties» to ensure what are essentially negative freedoms (see section 5.2.1, for example). Specification of the positive duties in concrete terms can make detailed regulation difficult. This means that guidelines such as that which has been proposed may be a suitable legislative technique to highlight a responsibility at an overall level. The scope and content of this responsibility can then be further outlined in different directions, as we do in the other proposed amendments to section 1-5, and the other measures proposed by the Commission (see chapter 7).

There is an inherent tension in the first paragraph. The institutions must ensure quality, but also individual academic freedom and freedom of expression. This tension is discussed in section 6.2.2 of the Commission's report. Among other things, the Underdal Commission stressed that all academic management and leadership must be

exercised with respect for the individual researcher's freedom to choose their own topics and methods and publish their results, and that «an institution cannot be held accountable for anything over which it has been deprived of authority.»³ We adhere to these general guidelines for the kinds of dilemmas that this tension might cause.

New third paragraph: This paragraph entails two specifications of the responsibility ensuing from the proposed amendments to the first paragraph:

First, it codifies the institutions' responsibility to *train* their staff and students in academic freedom and academic freedom of expression. The employees who require such training are those who need an understanding of these freedoms in order for the institutions to be able to fulfil their responsibilities pursuant to the first paragraph. This will be academic staff, but also administrative staff who interact with academic staff and students in a way that might affect their academic freedom of expression.

In this context, academic freedom means both institutional autonomy and individual academic freedom. Similarly, in this context, academic freedom of expression means freedom of expression used for academic purposes in a broad sense, both within academia, and in the form of outward dissemination and debate, as outlined in section 3.1.2. The reason why this freedom is emphasised in the third paragraph, while the first paragraph refers only to academic freedom, is the special need for employees and students to understand and receive training in the aspect of academic freedom that academic freedom of expression entails.

Second, it codifies the institutions' responsibility to *create a space* to ensure that academic freedom and academic freedom of expression can be exercised in practice.

The responsibility to ensure sufficient training in academic freedom and academic freedom of expression means they must create understanding of what these freedoms entail, why they are important, and how they can be exercised.

In its work, the Commission has gained a clear impression that it cannot be assumed that the management, university employees or students are familiar with the fundamentals of academic freedom and freedom of expression. Without this knowledge, it is difficult for them to fulfil the statutory tasks ensuing from section 1-3.

² Proposition no. 111 to the Storting (2020–2021) (legislative bill), section 2.2.1.

³ Official Norwegian Report (NOU) 2006: 19, section 3.2.3

Knowledge requires training. The institutions currently have systems and routines to provide their employees with the training necessary for them to be able to fulfil their research and teaching tasks. With the Commission's proposed new third paragraph, they will also be responsible for having systems and routines for training in dissemination. The Commission discusses the training that will be needed in section 7.4.3.

The responsibility to *ensure the prerequisites* for the exercise of academic freedom and academic freedom of expression means that the institutions must ensure that the academic employees have the opportunity to fulfil all the tasks they are to perform pursuant to sections 1-1 and 1-3: i.e. research, teaching and dissemination. This requires an understanding of what all the tasks entail and how they can be developed, as outlined under the section on training.

They must also ensure that employees have the time and opportunities to exercise academic freedom of expression, including through dissemination activities. This is not intended to limit the freedom of contract to create positions where employees have a particular responsibility for certain parts of the academic mission – be it research, teaching or dissemination. Nevertheless, the requirement to ensure the prerequisites for the exercise of academic freedom of expression is particularly relevant to the task of dissemination, since this task is currently often given lower priority than the other tasks. Ordinary academic positions with stipulated percentages where research and teaching together make up 100 per cent of the working hours may be in violation of the requirement to ensure the prerequisites for the exercise of academic freedom and academic freedom of expression.

The responsibility to ensure there are prerequisites also entails a responsibility to protect people who are exposed to unlawful expressions and threats or highly unpleasant and unreasonable treatment in edited and unedited media. Ways in which this can be done are outlined in section 7.4.

New point (c) in the fourth paragraph: This point makes it clear that institutional academic freedom also applies to the dissemination task. The addition is intended to highlight and secure the freedom to disseminate, thereby strengthening the freedom of dissemination of institutions that perform research, and thus also academic staff.

Pursuant to sections 1-1 and 1-3 of the Universities and University Colleges Act, dissemination is part of the purpose of and one of the tasks of

universities and university colleges, in addition to education and research. The institutional academic freedom to disseminate presupposes that the content of the dissemination, in line with the content of the teaching and research, is free from instructions and orders.

This can be ensured in two ways: either by including dissemination together with teaching and research and artistic and academic development work in point (a) of this paragraph, or by dividing the different tasks into four different points. The Commission proposes the latter. Clear division into three tasks will make section 1-5 better aligned with the divisions in section 1-1 (a)–(c) and section 1-3 (a)–(c). It will also ensure the task of dissemination is more clearly visible. Finally, it makes for easier reading: If all three tasks are included in the current point (a), it becomes very convoluted.

As described in chapter 3, the task of dissemination includes not only making research findings available, but also the transfer of general knowledge in the discipline and issues of importance to academic work, both within the institutions, and outwardly to society at large. Dissemination must therefore be interpreted in a broad sense here and in the proposed new sixth paragraph. However, it is academic dissemination, not academic employees' dissemination of other opinions or ideas, or participation in debates on other types of topics, that we are trying to clarify and highlight. The Commission has considered emphasising this by using the formulation «academic dissemination». However, since this term does not appear elsewhere in the Universities and University Colleges Act, this formulation may create uncertainty as to whether what is being regulated here is something other than the dissemination mentioned in, for example, sections 1-1- and 1-3. We therefore believe that it is better to only use the term «dissemination» both here in the proposed new point (c), and also in the proposed new sixth paragraph.

New seventh paragraph: This proposal has two objectives: To highlight the individual freedom of dissemination in line with the freedom of teaching and freedom of research, and to emphasise that dissemination (i.e. academic dissemination in a broad sense, as described above) is both an individual right and an individual responsibility.

Freedom of teaching and freedom of research are set out in the current fourth and fifth paragraphs. In order to highlight that dissemination is a task in the same way as these two other tasks, in line with the reasons cited for the new point (c) in the fourth paragraph, the Commission proposes

emphasising freedom of dissemination in a separate paragraph that corresponds to these two paragraphs.

Freedom of dissemination and responsibility for dissemination lie with academics who both do research and teach, but also those who only do one or the other. We have therefore formulated the subject of the new seventh paragraph in line with what is covered by the (new) fifth *or* sixth paragraph.

These paragraphs (the new fifth to seventh paragraphs) specify the three work tasks of academic staff. In principle, the employees' *right* to disseminate provided by the new seventh paragraph is a right the individual has in relation to an employer's right to direct and supervise the workforce. The fact that employees have this right should not be read antithetically, to imply that students *do not* have a right to engage in dissemination.

The content of the freedom of dissemination is outlined in chapter 3. As highlighted in that chapter, academic freedom of expression, entails both a right and a responsibility, including in connection with the task of dissemination.

Safeguarding the individual academic freedom of expression for dissemination is the crux of the Commission's mandate. The measures we are proposing are essentially measures to strengthen this freedom. However, several of the descriptions of dilemmas in chapter 6 show that academics do not always fulfil the responsibility that comes with this freedom in ways that promote the pursuit of truth and free exchange of opinions.

We have therefore sought to highlight this responsibility here. This responsibility has two sides. First, academic staff have a responsibility to pursue the truth by complying with the norms regarding quality, ethics and objectivity that apply in their field. Second, they have a responsibility to help their peers adhere to these norms, for example by conducting peer reviews, proposing alternative hypotheses or falsification, or presenting counter-arguments and clarifications of academic questions they themselves believe to be incorrect or inadequately elucidated in the public dissemination or debate.

We have tried to underline this understanding of the responsibility to conduct dissemination by formulating it as an «academic responsibility».

One challenge in connection with formulating the responsibility dimension of freedom of dissemination is that this kind of formulation may be (mis)used to limit or restrict freedom of expression, both for oneself and others. This is not our

intention. Even dissemination that some people find irresponsible may also be decisive to the seeking of truth and democracy. Exploring dead-ends can help identify more promising paths, and daring to make claims that turn out to be wrong can constitute good exercise of the responsibility of academic expression.

An absolutely key issue is this: The risk of «well-intentioned» interference with the legal and often important freedom of expression that academics exercise is always present – especially in connection with expressions that are controversial, do not align with prevailing opinions, or are forcefully and provocatively formulated. This risk can be further exacerbated by those who want less of this type of expression pointing out that academic freedom of expression must be exercised «responsibly».

In light of this risk, the Commission has considered suggestions proposed by the consultation bodies on adopting a provision in the Universities and University Colleges Act that corresponds to section 14(2) of the Irish Universities Act:

A member of the academic staff of a university shall have the freedom, within the law, in his or her teaching, research and any other activities either in or outside the university, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions and shall not be disadvantaged, or subject to less favourable treatment by the university, for the exercise of that freedom.

What the Irish law expresses – freedom «within the law» – is already applicable law in Norway. This follows from the protection of the general freedom of expression in Article 100 of the Norwegian Constitution and Article 10 of the European Convention on Human Rights, which also applies to academics (see section 5.1.1).

One advantage of expounding on some of the content of this protection of the freedom of expression in the Universities and University Colleges Act would be that the scope of academic freedom of expression would then be more clearly defined in the very Act that governs universities and university colleges.

A disadvantage is that these kinds of definitions always risk omitting parts of the protection that may also be central. Another is that our legislation would be significantly more ponderous and wordier if the exact content of all our freedom rights had to be spelled out for every single context where these freedoms risk coming under

pressure. The system we have for safeguarding these rights in Norway is that they are protected unless restrictions are explicitly stipulated in laws.

The Commission has therefore decided instead to propose the specified amendments to section 1-5 of the Act to clarify the institutional and individual responsibility to ensure that academic freedom of expression can be exercised in practice.

The purpose of highlighting academic responsibility in the proposed new seventh paragraph is to clarify the kind of responsibility for impartiality and the seeking of truth that comes with the freedom of dissemination academic employees have pursuant to the Universities and University Colleges Act. All citizens have the right to say whatever they want, however they want, within the statutory limitations of the general freedom of expression. Whether these legal boundaries have been breached is determined by regulated processes, and in the final instance before the courts. Questions about the use and misuse of the professional responsibility for dissemination are essentially a matter for academic deliberation.

Academic staff in sectors other than universities and university colleges

The Commission has not further examined the general rules and frameworks for freedom of expression in working life, restrictions in employment contracts, duty of loyalty, duty of confidentiality, etc., because these will be included in the Freedom of Expression Commission's report.⁴

The health trusts are a major and important player in research, and have a primary responsibility for patient-oriented clinical research. The health trusts have employees in purely academic positions, and employees in positions where they split their time between working as a health professional and doing academic work (research). Some employees have an employment relationship with both a hospital trust and a university, a so-called *combined position*. The ratio between the two employers may vary.

Employees in the health trusts are subject to the Working Environment Act and have ordinary freedom of expression.

For combined positions, an employee will be covered by the rules on academic freedom laid down in the Universities and University Colleges Act in respect of that part of their job that is linked

to a university. However, all academic staff at the hospital trusts should, regardless of whether they are in a combined position or not, have the same academic freedom and academic freedom of expression as people employed by the universities. This is vital in order to ensure that the important research that takes place in the health trusts (alone and in collaboration with the universities) can maintain the same level of confidence as other research. As an employer, the research institution has a responsibility to ensure that this is enshrined in the institution's frameworks. People who are in positions in which they alternate between roles as a health professional and an academic employee have a particular responsibility to be clear in their understanding and practice of their roles, also in their communication with the outside world. Section 6.3.2 discusses issues related to «uniformed» health professionals and balancing their roles as a researcher or doctor.

The third important provider of research is *the research institutes*. The organisational structure of these institutes varies widely (see the discussion in section 5.4). The institutes that receive basic funding from the state are subject to requirements, which are stipulated in guidelines⁵, and section 4.2 deals with academic freedom:

The institute must ensure that the principles of academic freedom apply to all publicly funded research carried out by researchers employed at the institute, provided this does not come into conflict with the employer's right to direct and supervise the workforce.

Researchers shall have the freedom to ask questions, including with regard to what is considered established knowledge and understanding, the greatest possible freedom to speak publicly about their research, freedom to propose new ideas, and freedom to choose the method and material for their research and development work within the frameworks that follow from the employment contract, project description or other special agreements. As a general rule, researchers employed at the institute shall have the right to publish their results and shall ensure that publication takes place if the assignment is publicly funded. If an assignment is partially privately funded, procedures

⁴ The Freedom of Expression Commission (ykom.no) is due to submit its report on 15 August 2022

⁵ Retningslinjer for statlig grunnbevilgning til forskningsinstitutter og forskningskonsern [Guidelines for public basic funding for research institutes and research groups] <https://www.regjeringen.no/no/dokumenter/retningslinjer-for-statlig-grunnbevilgning-til-forskningsinstitutter-og-forskningskonsern/id2895296/>

for publication must be clarified before entering into a contract and must be included in the contract for the assignment. If publication will prevent protection or commercial exploitation of the results of the research, publication may be postponed.

Academic staff at research institutes are not covered by the provisions of the Universities and University Colleges Act on academic freedom. In the Commission's opinion, it is important that academic staff at these institutes have the same academic freedom as those employed at universities and university colleges, to the extent that this is possible in view of the unique characteristics of the individual research institute. The institutes that are partly research institutes and partly administrative bodies will be in a similar situation as the health trusts. The «pure» research institutes depend on income from commissioned work to varying degrees, and the employer must therefore be able to direct the researchers towards research activities that an external actor is willing to pay for. The institutes must be able to instruct their researchers to sell their research time to a client. However, once the contract has been signed, the researcher must be ensured the freedom to carry out the project in accordance with their own academic judgment. Researchers in the institute sector must have the freedom to conduct research within the concluded research contracts in an academically untethered manner. The assignment contracts may also limit the researcher's academic freedom of expression. When this concerns legitimate interests, it is acceptable for an institute to agree that the client owns the results in a way that restricts the researcher's freedom of expression. These will primarily be commercial interests.

7.2.3 Assessment of the Constitution and other regulations

The Norwegian Constitution

Several of the consultative statements the Commission has received suggest that the Commission should propose amendments to the Constitution to ensure academic freedom of expression. Different grounds and formulations are used in the proposals. Some argue that academic freedom ought to be enshrined in the Constitution as a general principle. Others are more specific, but also more comprehensive in their formulations, with proposals such as the protection of «the freedom

of academia, art and scientific research», or that «Art and science, research and teaching shall be free. Teaching must respect the ideals on which the Constitution is based.»

As highlighted in section 3.1, academic freedom is broader than academic freedom of expression. Academic freedom also includes institutional freedom (i.e. institutional autonomy), which is outside the Commission's mandate. We have therefore not considered whether academic freedom ought, as a general principle, to be enshrined in the Constitution.

The question is whether academic freedom of expression can be better ensured by amending Article 100 of the Constitution to specifically mention «academic» freedom of expression, or by including academic freedom in one of the «vacant» provisions of the Constitution, such as Article 99.

As explained in section 3.1, the Commission considers academic freedom of expression to be a subcategory of the general freedom of expression – that it is an exercise of the freedom of expression and information for the particular purpose of seeking truth. As discussed in section 5.1.1, academic expressions already have strong protection at the constitutional and human rights levels. For a more in-depth assessment of this issue, see the Institute for Social Research (ISF) report referenced in that section.⁶

The Commission does not believe that an amendment specifically stipulating that «academic» freedom of expression is also protected by the Constitution would provide academic freedom of expression with better legal protection than it already has. An amendment of this nature might also trigger questions about the impact that specifically mentioning one field might have for all the other contexts in which freedom of expression is used, but which were not specifically mentioned, such as the fields of art, politics or journalism. Would they still have the same protection, or would their protections be slightly less, since they were not specifically mentioned? Nor is it the case that including different aspects of rights, or defining them more precisely, in the Constitution will automatically ensure that the rights are better protected in practice.⁷

A few of the consultative statements appear to indicate that the authors behind them think that

⁶ Strømme, Vidar (2020). *Ytringsfrihet i akademien* [Freedom of expression in academia]. Institute for Social Research (ISF) Report 2020:14 <https://hdl.handle.net/11250/2719456>

specification of academic freedom of expression in the Constitution would make this freedom more absolute, such that it would outweigh other rights and considerations. However, this is not the case. There are few absolute constitutional and human rights (one example is the prohibition against torture). Most rights, including freedom of expression, are relative. This means that the state can interfere with them on specifically defined conditions – in order to safeguard the rights of others (e.g. protection of privacy, anti-discrimination protection) or compelling societal considerations (such as national security).⁸ It is this relativity that allows legal restrictions to be imposed on freedom of expression, including academic freedom of expression. Examples of restrictions that apply, both in general and in academia, are laws that make it illegal to threaten people, violate their honour or privacy, incite terrorism or violence, commit qualified hate speech, or harass people. These restrictions will remain, even if the Constitution were to specifically mention academic freedom of expression.

For these reasons, the Commission is not proposing any amendment to the Constitution.

Labour law provisions

Employees have a *non-statutory duty of loyalty to their employer* to do what they can to ensure the best possible fulfilment of the employment contract. This is a fundamental social consideration. At times, the duty of loyalty can come into conflict with employees' freedom of expression. Non-statutory rights may satisfy the requirement for a legal basis for interference with the freedom of expression. In the face of non-statutory norms, however, the need for clarity becomes particularly important, because the absence of a legal text

⁷ It is not a given that constitutional rights automatically contribute to better protection in practice, or that the Constitution is used more, even in cases where it is relevant; see A. Kierulf, *Hvilken rolle spiller Grunnloven § 100 i Høyesteretts yringsfrihetspraksis? [What role does Article 100 of the Constitution play in the Supreme Court's practice in respect of freedom of expression?]* Lov og Rett (2012) p. 131.

⁸ The conditions for interference with the rights pursuant to Article 10 of the European Convention on Human Rights are that it must be prescribed by law, necessary to safeguard a legitimate purpose, and that it does not interfere disproportionately with freedom of expression. The conditions for interference with the rights in Article 100 of the Norwegian Constitution are that it must have a legal basis, and must be justified in relation to the grounds for freedom of expression, which are the pursuit of truth, the promotion of democracy and the individual's freedom to form opinions.

makes it even more difficult than usual for people to inform themselves about their legal status.

As pointed out in the report *Ytringsfrihet i academia [Freedom of speech in academia]*, a number of cases from the Parliamentary Ombud pertain precisely to demarcating the boundary between freedom of expression and duty of loyalty.⁹ Studies show that both employers and employees believe that, in practice, the duty of loyalty limits far more expressions than it legally should.¹⁰ The Commission has not considered whether the challenges entailed by the current regulatory solutions in striking a balance between freedom of expression and duty of loyalty could be remedied by codification, and if so, how this might be achieved.

Freedom of speech issues may arise in various areas, including in connection with *whistleblowing cases*, both pursuant to chapter 2A of the Working Environment Act and in the various internal systems for reporting irregularities at the institutions. These must be handled astutely by managers or others who administer the systems, with a main focus on the assumed intention of the person who made the disputed statements. If the disputed statements are an element of truth-seeking academic activities, the threshold for their being considered to constitute legitimate grounds for a whistleblowing case is very high. Nor should the exercise of academic freedom of expression be a grounds for sanctions pursuant to the Civil Service Act.

Section 185 of the Penal Code

Several commentators have pointed out in their consultative statements that section 185 of the Penal Code on hate speech is a provision that may restrict academic freedom of expression. The Commission is aware that the Freedom of Expression Commission has also received consultative input on this provision and has held its own consultation meeting in connection with this.¹¹ Changes to section 185 would have consequences

⁹ See Strømme, Vidar (2020): *Ytringsfrihet i academia [Freedom of expression in academia]*, p. 38 f. See also the Norwegian Parliamentary Ombud: *Undersøkelse av eget tiltak – offentlig ansattes yringsfrihet [Investigation of own measures – freedom of expression of public employees] (2015/940)* <https://www.sivilombudet.no/uttalelser/undersokelse-av-eget-tiltak-offentlig-ansattes-yringsfrihet/>

¹⁰ See the fact sheet produced by the Fafo research foundation *Ytringsfrihet i arbeidslivet [Freedom of speech in working life] 2021* https://www.faf.no/images/pub/2021/Ytringsfrihet_i_arbeidslivet.pdf

far beyond this Commission's mandate, and we are therefore not proposing any such amendments. We would, however, like to highlight some challenges that we believe should be taken into consideration if it were to be revised.

Many of the consultative statements the Commission has received have focused on the fact that it is very unclear as to what is covered by the provision, and that it therefore ought to be repealed or amended. Examples of challenges that have been reported to us are that the provision can prevent statements that are critical of religion or gender categories.

Blasphemy and other criticism of religion are not a criminal offence under Norwegian law. Even criticism that is perceived as deeply offensive to followers of the religion that is being criticised is protected. The Supreme Court draws a sharp distinction between statements directed at topics or institutions, such as religion, and statements directed at the individuals who practise this religion.

The first group of statements is normally encompassed by the general freedom of expression and is not a criminal offence pursuant to section 185 of the Penal Code, even if they are perceived to be offensive. These kinds of statements – such as political statements, for example – do not target «a person», which is a condition for the application of section 185.¹²

Fact-based, truth-seeking expressions are not covered by the provision, even though some people may find them offensive. Expressions of this nature are at the very core of the protection of the freedom of expression pursuant to Article 100 of the Norwegian Constitution and Article 10 of the European Convention on Human Rights – even expressions that, objectively, are clearly rude, and not particularly well suited to advancing the pursuit of truth or promoting democracy. In several cases pertaining to section 185 of the Penal Code, the Supreme Court has stressed that «beyond the core area for the freedom of expression[s], there is a relatively spacious margin for tasteless expressions».¹³

¹¹ The Freedom of Expression Commission: Input meeting on section 185 of the Penal Code on hate speech. <https://www.ykom.no/2020/12/22/innspillsmote-straffelovens-%c2%a7-185-om-hatefulle-ytringer/>

¹² Supreme Court judgment HR-2020-184-A., paragraph 24

¹³ See, for example, Supreme Court judgment HR-2018-674-A, paragraph 17

However, section 185 of the Penal Code has rather obscure wording. It has been tweaked on a number of occasions, in part to include more protected groups, but it has retained several formulations that no longer align with the current legal reality.

In the first paragraph, it states that it applies to any person who «... publicly makes a discriminatory or hateful statement...», such that the terms «discriminatory» and «hateful» are alternatives. In legal practice, however, discriminatory statements are not covered unless they are also hateful.

The second paragraph states that «'discriminatory or hateful statement' means threatening or insulting a person or promoting hate of, persecution of or contempt for another person based on his or her...» (followed by a list of the protected groups).

Threats are already prohibited by sections 263 and 264 of the Penal Code. The word «*ringeakt*» («contempt» in the English translation) is rather antiquated in Norwegian and not particularly readily comprehensible. Linguistically, the word «*forhåne*») («insult» in the English translation) is often used for statements that are much milder than those covered by section 185 of the Penal Code.

Pursuant to legal practice, only statements of a «qualified offensive nature» are affected. This includes expressions that «incite or support violations of integrity» and expressions that entail a «gross disparagement of a group's human dignity».¹⁴

The threshold for being covered by section 185 of the Penal Code is thus much higher than the current wording of the provision implies, when applying a standard linguistic interpretation of the wording. It is not uncommon for laws to need to be interpreted in the light of several sources of law before the precise norm they express can be established. However, it is extremely unfortunate to have a statutory provision in the area of freedom of expression that both carries defined penal sanctions and that can mislead people into believing that a wider range of acts will entail punishment than is actually the case in terms of legal practice. It will clearly have the potential to silence more statements than the provision is intended to encompass. The wording should be changed to reflect the qualifications that have been established through legal practice.

¹⁴ Ibid. paragraph 27.

The Commission would also like to draw attention to two additional challenges with this provision. The first is linguistic; the second is legal.

Linguistically, it is a problem that the term «hate speech» is used in a range of contexts in everyday speech in ways that are different to its use in the Penal Code. Everyday usage tends to include much more than what is covered by section 185 of the Penal Code.¹⁵

This, in turn, is related to the different ways in which «hate» is used as a noun and an adjective. They can be roughly grouped into two categories:

Some people will reserve the term «hate» for statements made with a hateful intention: either a hate of others due to individual or collective characteristics, or a wish to harm or harass them for other reasons. If this kind of intention is absent, the subjective experience of the people exposed to the expressions becomes irrelevant.

Some people use the term more widely, to refer to expressions that are experienced as hurtful, offensive or hateful by either the recipient or bystanders. When «hate» denotes a phenomenon in which the subjective experience of the listener or reader is decisive, the intention of the person behind the expression is irrelevant.

Both of these approaches are difficult to reconcile with ordinary linguistic usage. The first because meaning cannot be determined by the person behind an expression alone, it also depends on how others perceive what is said, in light of the entire context of the expression. The

second because it overlooks what the person who made the expression actually meant.

The second use of the term «hate» differs from dictionary examples, which imply that ill intention is a determinant for hate.¹⁶ It is also problematic legally, because an understanding in which the expresser's intention is irrelevant contradicts the principle of legality as explained in section 5.1.3. In addition, assumptions regarding intention are also crucial in determining culpability in legal terms. Section 185 of the Penal Code covers hate speech made with intent or gross negligence. None of these forms of culpability can be established if the expresser's assumed intention or the assumed understanding of what the expressions he or she made conveyed to others is disregarded.

Legally, it is also a question of whether in legal practice the provision has been given a wider scope of application than its position in the Penal Code might imply. Section 185 is in chapter 20 of the Penal Code, «Protection of public peace, order and security». The objectives of the provisions in this chapter are public security and the protection of collective interests.

A key consideration behind section 185 of the Penal Code is to counter the hate that may arise in society at large, against a minority, as a result of aggravated hate speech. This is reflected in the fact that section 185 applies only to statements that are made *publicly*.¹⁷ In principle, the injury that an individual experiences as a result of hate speech is not protected: if a hateful statement is sent to someone directly in a private message or is voiced in private, it is not covered by this provision.

It is also a clear social goal to protect citizens from fear and certain other subjectively perceived violations. Several penal provisions exist for statements that may cause this. However, common to most of them – such as threats, violation of the right to a private life, harassment and stalking – is that they are included in chapter 24, «Protection of personal freedom and peace».

Over the past decade, there have been a number of Supreme Court judgments pursuant to section 185 against statements that are public, because they were made in a public place, but which appear to be more of an aggravated per-

¹⁵ Several of the empirical surveys that set out to identify expressions that people find unpleasant and harmful use the term in this way; see, for example, the Equality and Anti-Discrimination Ombud's report: *Hatytringer og hatkriminalitet [Hate speech and hate crimes]*, 2015, p. 12: «Hate speech is degrading, threatening, harassing or stigmatising speech which affects an individual's or a group's dignity, reputation and status in society by means of linguistic and visual effects that promote negative feelings, attitudes and perceptions based on characteristics such as ethnicity, religion, gender, disability, sexual orientation, gender expression, gender identity and age.» See also the Norwegian Association of Local and Regional Authorities (KS)'s 2019 survey *Hat og trusler mot folkevalgte [Hate and threats against elected representatives]*, and C-Rex's *Norske lokalpolitikeres erfaringer med trusler, hatytringer og plagsomme henvendelser [Norwegian local politicians' experiences with threats, hate speech and bothersome inquiries]* from 2020. The Norwegian Media Authority's report on harassment and hate speech from 2021 and also the Norwegian Police University College's report *Trakkassering og trusler mot politikere [Harassment and threats against politicians]* from 2022 p. 48. The Norwegian Media Authority's 2022 report *Man må ha tykk hud eller unngå å være på nettet [You need to have thick skin or avoid being online]*, which examines young people's experiences with hate speech, also counts «criticism of clothing or performance in games» as manifestations of «hate» (see p. 20).

¹⁶ See, for example, the definition of «hate» in the Norwegian dictionary *Det norske akademis ordbok* (naob.no) <https://naob.no/ordbok/hat>

¹⁷ The provision was amended in 2009 to also include statements made «in the presence of others».

sonal attack than statements that are likely to stir or incite hate of a specific group.¹⁸ If this provision comes up for revision, it should be considered whether this is a desired development, or whether this form of harassment and violations that target individuals should instead be covered by other, or new, penal provisions.¹⁹

Section 13 of the Equality and Anti-Discrimination Act

This provision prohibits harassment on the basis of one of the grounds for discrimination listed in section 6 of the Equality and Anti-Discrimination Act, plus sexual harassment. The provisions in section 13 of the Equality and Anti-Discrimination Act apply generally. In employment relationships, harassment is also prohibited pursuant to section 4-3 (3) of the Working Environment Act.²⁰

Protecting people from harassment is a fundamental and important social goal. Prohibition of harassment can affect academic freedom of expression in at least two ways. It can restrict what academics can say to others, including students and each other. It can also enable truth-seeking expressions from academics, by protecting against them being harassed into silence.

The challenge with section 13 of the Equality and Anti-Discrimination Act is that according to the wording of the provision, harassment appears to be something that can be assessed subjectively, based on the experience of the person who feels that they have been harassed.²¹ Section 13 (2) of the Equality and Anti-Discrimination Act defines harassment as «acts, omissions or statements that have the purpose or effect of being offensive, frightening, hostile, degrading or humiliating». Several academic whistleblowing systems refer to this interpretation of harassment.²²

It is easy to interpret «purpose or effect» in section 13 of the Equality and Anti-Discrimination

Act as alternative criteria, such that the purpose of and intention behind a statement is irrelevant – harassment has occurred if a person feels offended.

According to the preparatory works for the Act,²³ and in the practice of tribunals,²⁴ it is clear that, from a legal perspective, the wording should not be understood in this way. Although harassing *effect* is also covered by the prohibition, and considerable weight must therefore be attached to the subjective experience of the person subjected to the statement or acts, a certain degree of severity is required. The subjective experience of the person who alleges that they have been harassed must therefore be supplemented by an objective assessment of the severity of the behaviour. Linguistically, the assumed intention of the person who expressed something that was allegedly harassing will also be taken into consideration in the assessment.

Practice shows that many people do not interpret section 13 of the Equality and Anti-Discrimination Act as requiring an objective degree of severity for harassment to have occurred. Examples illustrating this can be found in many areas of society, including academia. Some recent examples include: A student intern at a hospital experienced academic questions as ethnically degrading and intimidating, and claimed that they had been a victim of harassment, without this actually being the case in legal terms.²⁵ An associate professor experienced the head of department's conduct and statements as threatening and harassing, on the basis of the associate professor's gender and/or ethnic background. The Norwegian Equality and Anti-Discrimination Tribunal ruled that this was not objectively harassment.²⁶ A psychologist was ruled not to have harassed a transwoman she was treating, even though the psychologist had

¹⁸ See, for example, Norwegian Supreme Court Report (Rt.) 2012 p. 689, Norwegian Supreme Court Report (Rt.) 2018 p.674 and Supreme Court judgment HR-2020-2133.

¹⁹ The difference in interests that are protected may also have an impact in terms of criminal procedure, for example for the question of the right to have a charge reclassified (see Norwegian Supreme Court Report (Rt.) 1989 p.1336.

²⁰ There is an explanation of workplace harassment, which is covered by labour law, on the Norwegian Labour Inspection Authority's website: <https://www.arbeidstilsynet.no/tema/trakassering/>

²¹ Harassment is not defined in section 4-3 (3) of the Working Environment Act. According to the preparatory works and legal practice, the assessment of whether someone has been subjected to harassment depends on an objective norm; see, for example, Norwegian Supreme Court Report (Rt.) 2004 p. 1844, LG-2020-176005.

²² See, for example, the University of Bergen's «Si fra!» [Speak up!] whistleblowing campaign <https://www.uib.no/varsling/144904/si-fra-om-mobbing-trakassering-og-seksuell-trakassering-%E2%80%93-fra-ansatte>

²³ See the review in the preparatory works to the Equality and Anti-Discrimination Act: Proposition no. 81 to the Storting (2016–2017) (Bill) p. 320

²⁴ See, for example, the Norwegian Equality Tribunal – complaint case 20/299 <https://lovdata.no/pro/#document/DIN/avgjorelse/din-2020-299?from=NL/lov/2017-06-16-51/%C2%A713>

²⁵ The Norwegian Equality Tribunal – complaint case 21/142 <https://www.diskrimineringsnemnda.no/showcase/2021000142>

²⁶ The Norwegian Equality Tribunal – complaint case 20/238 <https://www.diskrimineringsnemnda.no/showcase/2020000238>

not used the gender pronoun «she» in her journal.²⁷

In asymmetrical power relations, power can easily be abused by people who have more power against people who have less. It is therefore extremely important to have a well-functioning prohibition against harassment. However, if the power to define what is considered harassment lies with the party that perceives that they have been harassed, this also gives them a power that can be abused. Accusations of harassment can be very burdensome for the people accused. They can also change the outside world's opinion of the individual concerned and are very difficult to defend oneself against.

In some cases, harassment may be a criminal offence (cf. section 39 of the Norwegian Equality and Anti-Discrimination Act). False claims of criminal harassment may be defamatory, in which case, they can be prosecuted in the «opposite direction». «Resolving» allegations of harassment with defamation lawsuits is an unfortunate solution, and does not benefit either the person who feels harassed or the person accused of harassment. Civil litigation is expensive for both parties. The public interest that a trial can generate will often contribute to even more unwanted attention concerning the disputed claim of harassment, with the additional burden this may entail for both parties.

In the event of any revisions to the Equality and Anti-Discrimination Act, the Commission therefore believes that the wording in section 13 ought to be made clearer.

7.3 Changes in the governance of universities and university colleges

7.3.1 Dissemination as an element in the development agreements

The governance system for universities and university colleges is discussed in section 5.3.1. The Commission notes that the Ministry of Education and Research intends to make some changes to the governance system: the national objectives will no longer apply to each individual institution, the national governance parameters are being discontinued, and the institutions will largely be gov-

erned on the basis of the individual development agreements.

The Commission has taken a closer look at the existing development agreements and has noticed that most contain very few goals related to traditional dissemination. In terms of civic engagement, the development agreements focus on innovation and collaboration with the labour market.

The Commission is aware that new development agreements are going to be drawn up in 2022 for all 21 public universities and university colleges. We propose that all the development agreements agreed on by the Ministry of Education and Research and universities and university colleges should contain goals related to dissemination. These goals and their appurtenant indicators can be qualitative or quantitative and can vary from institution to institution, depending on the challenges and potentials for improvement at the individual institution. Examples of these kinds of goals include:

- Increase public dissemination activities
- Develop institutional systems to protect and support academic employees who are subjected to intimidation and harassment as a result of their dissemination activities
- Training and practice activities related to dissemination
- Reward systems for dissemination
- Include expectations regarding dissemination activities in employment contracts in connection with appointments and promotions

7.3.2 Dissemination indicator in the funding system

The funding system for universities and university colleges is discussed in section 5.3.2. It is stated here that the funding system rewards teaching and research activities, student mobility, and income from sponsored and commission-based activities («BOA»). However, the system does not reward traditional dissemination activities.

Opinions may be divided on the pros and cons of various methods of counting and measuring, but once something has been measured, it counts. And vice versa. Several of the consultative statements suggest that traditional dissemination activities should also be recorded and rewarded through the current funding system.

The indicators in the funding system receive a lot of attention at universities and university colleges, even though in reality some of the indicators, such as the publication indicator, actually carry limited financial resources. Given that other

²⁷ The Norwegian Equality Tribunal – complaint case 20/287
<https://www.diskrimineringsnemnda.no/showcase/2020000287>

activities such as research, education and commissioned activities are included as components in the funding system, the Commission finds that the current system under-communicates the importance of dissemination. The Commission therefore agrees that a dissemination indicator ought to be introduced in the funding system for universities and university colleges.

The Commission has not assessed the funding system as a whole. The proposal must be assessed in the context of the current system. If the funding system is modified in accordance with the Funding System Commission's proposals, the question of a dissemination indicator may need to be reconsidered.

The Commission has been in dialogue with the Directorate for Higher Education and Skills (HK-dir) to discuss possible designs for this kind of dissemination indicator. In its work on a dissemination indicator, the Commission has looked at the assessments made in connection with the development of the publication indicator. Reference is made to these assessments, where relevant.

Prerequisites for a dissemination indicator

The Commission assumes that the development of a dissemination indicator will be based on the following:

- All activities that are to be documented as rewardable dissemination must be related to activities performed as an academic, not as a private citizen.
- The dissemination must be related to
 - the academic's own field of study in a broad sense or
 - structures and/or parameters for academic work
- The content of the dissemination does not need to be quality assured
- It must be possible to document and/or retrieve the dissemination retrospectively
- It must be a simple task to choose the right category when registering dissemination
- There should be clear criteria for what activities count as rewardable dissemination (with the fewest possible exceptions)
- There should be equal weighting in the reward system (i.e. no differentiation based on the format and quality level, as is the case for academic publications; cf. the difference between full scholarly articles and chapters in a book, and between level 1 and level 2 publication channels)

- It is not a goal that the dissemination indicator should be «perfect», i.e. it does not need to take into account all possible dissemination activities that might be considered relevant.

Requirements regarding the dissemination indicator

The Commission finds that specific requirements should be set for dissemination activities that are going to be included in a dissemination indicator.

To earn publication points, *academic publications* must meet the following requirements:

- Present new insights
- Be in a form that ensures that the results are verifiable or applicable in new research
- Be in a language and have a distribution that makes it available to most researchers who might be interested in it
- Be published in a publication channel that has routines for peer review

In the light of this, the Commission finds that *requirements for academic dissemination* should be:

- The dissemination must be related to
 - the academic's own field of study in a broad sense
 - structures and/or framework conditions for academic work.
- The dissemination must be aimed at the general public and/or experts or professionals in other fields (but not peers in the same discipline), and have a distribution that makes it available to most people who might be interested in it
- The dissemination must be documented in a way that enables retrospective verification

Registration

Academic publications that are ranked in the Norwegian Scientific Index (NVI)²⁸ are based on a system of approved publication channels. Prior approval of dissemination channels is unrealistic – there are too many possible channels of dissemination. Dissemination activities must therefore be registered by the individual researcher or disseminator or a person delegated to do so. As a minimum, it must be registered which dissemination activities have been carried out and in which forum the dissemination has been communicated

²⁸ The reporting of academic publications to the Norwegian Scientific Index (NVI) – Cristin <https://www.cristin.no/nvi-rapportering/>

(medium, organiser, etc.). For a dissemination indicator that will carry financial resources, a control regime must be established, including spot checks or similar, among other things to ensure verifiability and comply with requirements from the Office of the Auditor General of Norway.

Activities that should be included in a dissemination indicator

The Commission finds that a dissemination indicator should be based on a selection of dissemination activities. The following activities will be appropriate:

- Written texts published in the media (feature articles, guest opinion articles, and encyclopaedia articles)
- Own digital dissemination (blog posts, podcasts)
- Interviews, media appearances, documentaries
- Lectures (not including lectures for peers)

The Commission is aware that the activities included in a dissemination indicator in the funding systems will receive greater attention than other activities. However, the main concern is to establish a simple indicator, as opposed to an indicator that captures every possible form of dissemination. It seems that one of the main reasons why the previously proposed dissemination indicators were not implemented was their complexity. It should also be possible for the arts to be covered by a dissemination component, provided that limits are defined regarding which activities will count.

The weighting of the dissemination indicator

With a view to ensuring simplicity in the system, the Commission recommends that all dissemination activities be counted equally (i.e. no division into «levels», as is currently the case for academic publication).

In the performance-based funding system for universities and university colleges, the performance-based score depends on the institution's performance on eight quantitative indicators with both open and closed (i.e. zero-sum games) budget frameworks (see section 5.2.2). The publication indicator is included in the closed budget framework.

The Commission finds that it will be most natural for a dissemination indicator to be handled in the same way and to have the same weight as the publication indicator.

7.3.3 Easier reporting of dissemination

As stated in section 5.2.3, the number of categories and subcategories in the current system for registration and reporting of dissemination activities is very extensive, with 11 main categories and a total of 70 subcategories.

In the Commission's view, the current reporting system appears to be the sum of all the previous systems plus new activities that have been added at the request of the institutions. For example, «feature», «editorial», «letter to the editor», «guest opinion» are all different subcategories related to dissemination in the media. Furthermore, activities may also be registered that have little to do with what most people would associate with dissemination, such as «errata» and «brochure».

Registration of dissemination activities in Cristin is not prioritised because dissemination does not count towards any reward, and registration thus only takes up even more of the academics' precious time. The Commission assumes that the complicated registration system has also contributed to inadequate documentation of dissemination activities in Cristin.

The Cristin reporting system is now going to be phased out and replaced by the National Knowledge Archives (NVA). In this connection, we propose that the reporting system for dissemination activities be greatly simplified to concentrate on the main elements of academic dissemination. Interrelated dissemination activities ought to be registered together in joint categories. Reporting should be streamlined. One measure to this end is to create systems for direct reporting from other channels, such as directly from the encyclopaedia snl.no, as long as there is adequate security associated with the identification of authors, etc. There is a need for this type of automatic registration regardless of whether or not a dissemination indicator is incorporated into the funding system.

7.4 The institutions' responsibilities

7.4.1 Declaration on academic freedom of expression

One of the challenges that has been mentioned in many of the consultative statements submitted to the Commission (see section 6.5) is the poor culture of free speech in various segments of academia. A good culture takes time – to build and requires continuous maintenance – by the staff,

students and management. Cultural changes are not something a commission can propose from above, they must be cultivated from the bottom up and carefully nurtured within the academic institutions – i.e. the universities, university colleges, etc.

A number of universities have tried to improve the understanding of academic freedom of expression and thereby create a better culture of free speech by adopting declarations, principles or policy statements on freedom of expression.²⁹ The Commission has studied a number of these and has drafted a declaration on academic freedom of expression, which we have attempted to adapt to Norwegian conditions. See box 7.2.

The idea is that this draft declaration can act as a springboard for discussion and raising awareness about academic freedom of expression. Awareness-raising is one precondition for building a better culture of free speech. The text is offered as a proposal; it is not intended to be regarded as a requirement or order. It can – and should be – criticised and modified.

The text can be used as a starting point for declarations, position statements, etc. on academic freedom of expression, with those adjustments, adaptations and references the institutions and units deem appropriate.

Documents like this can be used to raise awareness and ensure focus, but they are not governing. They have the same relationship to freedom of expression as a legal right as Norwegian national day oratories (so-called «17 May speeches») have to the Constitution: they shall encourage deeper understanding and reflection, as opposed to a narrowing down or hollowing out. In discussions and adaptations of the declaration, it is important not to get too wrapped up in fine formulations crafted for the purpose of providing a basis for broader and better academic freedom of expression. These kinds of formulations always entail a risk of having the opposite effect, i.e. resulting in a narrowing down of academic freedom of expression in practice. Regardless of the form in which the text is adopted, it must be read and implemented with this risk in mind. The point is to promote greater and better understanding of academic freedom of expression, not to create

doubts and uncertainties that result in expressions being withheld.

7.4.2 Management – institutional and individual

Legislation and other formal governance instruments are a necessary but inadequate condition for safeguarding academic freedom of expression within universities and university colleges. Several of the consultative statements the Commission has received suggest that culture, good leadership, openness, transparency and continuous, stimulating dialogue are more important for building a good culture of free speech in academia. In this section, we make some recommendations that may help with the practical implementation of the regulatory governance instruments.

Some challenges are of such a nature that they should not be the responsibility of the individual manager, but must be addressed at the institutional level. Others pertain to astute leadership.

Institutional strategies

The institutions should clearly emphasise in their strategies that academic freedom of expression, academic dissemination aimed at the general public, and active participation in public discourse are natural elements of the mission of universities.

The expectations concerning academia's enlightenment role and contributions to the public seeking of truth are already enshrined in Article 100 (6) of the Constitution and sections 1-1 (c) and 1-3 (c) of the Universities and University Colleges Act.

In many institutions, much greater value and rewards are attached to research, education and, in some areas, innovation than dissemination. This must change if academic freedom of expression is to be stimulated. The changes will require both active cultivation of academic expressions through recognition and solicitation, and vigilance in protecting free speech and avoiding restrictions on expressions that might be perceived as controversial. In connection with appointment processes, the management should have clear expectations and defined criteria for assessing the candidates' dissemination results, skills and experience.

Both statutory objectives and institutional strategies can exert an influence on research, teaching and dissemination. The institutions must be aware of this in order to ensure that academic freedom of expression is safeguarded. An exam-

²⁹ Examples of these kinds of documents from the universities of Oxford, Princeton and Chicago: <https://compliance.admin.ox.ac.uk/freedom-of-speech>, <https://rrr.princeton.edu/university#comp113>, <https://provost.uchicago.edu/sites/default/files/documents/reports/FOECommitteeReport.pdf>

Box 7.2 Declaration on academic freedom of expression

Academic freedom of expression is rooted in our need to seek truth and knowledge. As a society, we depend on continuously seeking new understanding, which also entails challenging established truths. Free research and open discussion and criticism are prerequisites for scientific advances – and for them to be exploited for the common good. This freedom goes hand in hand with a responsibility to be objective and adhere to the ethical norms and professional standards of the various academic disciplines. Nevertheless, there is always a freedom to challenge these same standards.

As full members of an academic community, students also have academic freedom of expression. However, full membership does not mean they are fully fledged academics: Students must therefore have both the opportunity and a responsibility to receive instruction in scientific argumentation and thinking.

As independent stewards of academic freedom and academic freedom of expression, academic institutions are crucial for diversity and division of power in society. Academic freedom obliges academia to create the broadest possible arena for use of academic freedom of expression. Managers and other leaders in academia must assume responsibility for supporting, promoting and protecting academic staff and students in the active use of their academic freedom of expression.

Free speech is the lifeblood of academia. The institutions must therefore not place restrictions on academic staff and students' freedom to speak, write, listen, challenge and learn. An employee or student who wants to present problems, theories and views must have the opportunity to be heard – and to be confronted with questions, counter-arguments and criticism.

Academic institutions shall promote a culture of free speech characterised by mutual

acceptance and respect for disagreement, thereby contributing to a civilised discussion. They have a duty to safeguard employees and students who are subjected to unlawful expressions. However, it is not up to the institutions to protect staff and students from lawful expressions that many people disagree with or find offensive. Freedom of expression also protects embarrassing, unacceptable, immoral, unpleasant, shocking and offensive expressions. The institutions can regulate the time, place and format of activities in a way that promotes orderly discussion, but this must not restrict free and open debate. It is up to the academic staff and students, not the institutions, to applaud and commend expressions or dispute them using counter-arguments. Academic discussion requires that people's expressions are not met with silence. It requires recognition that views with which one deeply disagrees also have a place in the public sphere.

It is a central task for academic institutions to nurture academics' ability and readiness to engage in good debate and to protect their freedom to engage in discourse if someone tries to restrict it. Academic freedom and academic freedom of expression require an open culture of debate, and the institutions should therefore defend and promote debate on controversial topics. Both staff and students must engage in free discussion of controversial academic issues and be given training in critical assessment of different views, including their own.

Disciplines, faculties or institutes characterised by conformity or limited diversity of opinion are particularly encouraged to open up to and explore contrary views and approaches from outside their field.

ple of the types of dilemmas that may arise is that institutional cooperation with the petroleum sector and research on petroleum technology have posed challenges, among other things in relation to section 1-1 (d) of the Universities and University Colleges Act, which states that the institutions shall contribute to environmentally, socially and economically sustainable development. Strategic

or statutory obligations linked to various objectives must not be used to curtail academic freedom of expression.

Institutional collaborative partnerships with certain countries, such as China or Israel, are another example of institutional choices that have sparked debate. The choices the institutions make and any reactions they trigger must be met with

open, objective debate and relevant argumentation about the reasons for the choices that have been made. The institutions should also plan to engage in a broad, constructive debate before making choices.

It is important that institutions have a conscious focus on academic freedom and academic freedom of expression in their international engagements. Collaboration with overseas institutions and academic staff will often be unproblematic, especially with countries that have the same or similar attitudes and regulations regarding freedom of expression. However, as we have shown in chapter 4, there are also countries not so very far from home that require particular vigilance from the institutional management and the individual employee. In sections 4.2.3 and 6.3.4, the Commission points out that some countries are particularly demanding to collaborate with, and that partnerships with these countries may require the institutions to adhere to special guidelines and regulations. This does not mean that Norwegian institutions and Norwegian researchers should refrain from collaborating with institutions and researchers from these countries. Indeed, in many cases, this collaboration is encouraged and facilitated on the national level, including through the Panorama strategy. There are multiple reasons why Norwegian institutions should engage in this kind of cooperation. In many cases, it is needed in order to remain at the forefront of research, but it can also be important for political and cultural reasons. Here too, however, the Commission would stress that it is important for the individual institution and scholar to think through various aspects of these partnerships. Norwegian institutions are responsible for creating conditions that ensure that their employees are free to communicate about the findings of their research.

The export control rules are critically important for Norwegian society, as are academic freedom and freedom of expression. The Ministry of Foreign Affairs possesses knowledge about the former, but not the latter. In the Commission's view, this should have two important consequences in the application of the new regulations. The first is that universities, university colleges and research institutes that have activities in and with states with which Norway does not have a security policy agreement should strengthen their own competence to assess the risks associated with the collaboration and have a quality assurance process in place in order to ensure this is operated in line with both academic standards and

national security considerations. In addition to keeping up to date with the latest advice from the security services and others on an ongoing basis, it may be pertinent to establish a permanent expert panel that can assess collaborative projects and agreements before they are entered into and during the partnership period and provide advice on responsible academic cooperation at the institution.

The second consequence is that the institutions must participate in consultation and decision-making processes concerning the Ministry of Foreign Affairs' enforcement of the export control regulations in connection with collaborative knowledge partnerships (see section 7.6.2).

The review in section 6.4.2 shows that internationalisation can create a number of challenges for the institutions, which may in turn have consequences for academic freedom of expression. How are internationally recruited employees welcomed to the institution? How are they included in the academic community in Norway? The Commission would encourage the institutions to adopt a more focused and coordinated approach to internationalisation, not least in connection with recruitment. How will we welcome and onboard academic staff recruited from abroad? What requirements and offers will the employer have to ensure new internationally recruited employees acquire knowledge of the Norwegian language, culture and social norms, culture of cooperation, and culture of free speech? It is also important to look at the impact of a growing proportion of internationally recruited academic staff on the development of the discipline, the distribution of tasks among employees, the dissemination of knowledge to society, etc. Internationalisation necessitates awareness in the design of personnel policy, including recruitment, and in plans for development of the discipline.

Employee's use of their title and institutional affiliation is often a contentious issue in academia (see section 6.3.1). It is up to the individual institution to decide who can speak on their behalf. Legally, it is up to the individual employee to choose how they wish to present themselves in public, provided they are speaking on their own behalf. Most experts do this. Experts who are in a management position must pay particular attention to clarifying which role they are speaking in the capacity of at any one time. Irrespective of this, awareness of how one uses one's academic legitimacy and credibility in the public domain is a general aspect of the individual responsibility of academic expression. The institutions should

work to raise awareness of the various considerations that must be weighed up when using one's title and academic affiliation in connection with expression of views and opinions in different situations. This would both help minimise this type of conflict and make the individual employee more confident about what assessments they themselves need to make.

The focus that institutions have on their reputation can raise some particular issues. What is a university's reputation and what threats is it exposed to? An academic institution's reputation requires not only high quality in research and teaching, but also that the institution actively promotes and protects academic freedom and academic freedom of expression. The civic mission of universities is changing. From relatively small, introverted, elitist institutions with limited impact on the surrounding community, universities have evolved to become major social institutions with extensive influence on large swathes of young people. They exert an influence through the education they provide, but are also an arena for further general personal growth and broadening of horizons. Universities have active interfaces with private businesses and the public sector, and also benefit from substantial funding from them. In this sense, reputation is important, but both the ways in which it manifests itself and the ways it can be safeguarded are different for an academic institution compared with other organisations, especially in the private sector. Academic reputation must be based on openness, transparency, acceptance of disagreement and heated exchange of opinions, albeit based on academic rigour, respect for documentation and insight.

How should an individual scholar exercise their academic freedom of expression in cases where the institution has signalled a particular point of view? The best solution is probably to follow exactly the same principles as otherwise. On issues where universities and university colleges have taken a stand at the institutional level, it is important to affirm and respect divergent views expressed by staff and students. Disagreement is fine, it ensures the world keeps moving forwards, and employees who disagree with the institution's views should be encouraged to explain their reasons and challenge the institution's opinion.

As outlined in section 6.2.2, the institutions must be aware of the possible contradiction that lies in both promoting and safeguarding academic freedom and ensuring high quality in research, teaching and dissemination. There is no definitive solution to this potential dilemma. However, it is

an institutional responsibility to ensure attention is paid to the issue and to facilitate open, transparent discussions about the various considerations that must be taken into account during the processes that put it on the agenda.

When collaborating with other partners such as businesses, the institute sector, etc., the institutions may face challenges in the form of their partners wanting the rights to the results, patents, etc. This also narrows down the arena of expression for academic staff as outlined in section 6.4.5. These kinds of restrictions may be legitimate, but they must be clarified, discussed and agreed in connection with the conclusion of agreements and project planning. Any restrictions must be of a type that everyone involved agrees on. Although competition factors may make it necessary to delay publication of results, open access publication and opportunities for source criticism should remain the main rule.

The institutions must also pay attention to the kinds of dilemmas that can arise when trying to balance considerations related to protection of privacy and research ethics with academic freedom and freedom of expression. It is very important that these are addressed in a holistic manner where ethical and privacy considerations are weighed up against both freedom of expression and freedom of information. The institutions should involve their academic staff in the development of the systems and routines whose purpose is to maintain a good balance in this respect. The individual institution must decide how much the individual academic employees should be checked and monitored and how much they are to be trusted to strike a good balance themselves. An increased level of awareness and knowledge among the staff at the research institutions will be an important first step, with a focus on the fact that protection of privacy is ensured in part by statutory rules and in part by research ethical norms. Knowledge is necessary to establish good administrative routines and ensure responsibilities have been clearly ascribed. Furthermore, good understanding and reflection are necessary in order to identify and formulate well-considered needs for improvement. This must be included in the training that employees require in research ethics (pursuant to the Research Ethics Act) and in academic freedom (cf. the Commission's proposal to include requirements for training in section 1-5 of the Universities and University Colleges Act). This proposal is discussed in section 7.2.

Elements that might be included in the institutions' strategies for dissemination are discussed in section 7.3.1 on dissemination as an element in the development agreements between the Ministry of Education and Research and the public universities and university colleges.

It is important that academic institutions recognise the need for diversity in their recruitment work and contribute to achieving this. In this context, it is particularly important to pay attention to diversity of political and ideological opinion.³⁰ In order to contribute to equality and counteract conformity, the approach to diversity must be broadly based and be applied along multiple axes. It is a management responsibility to raise awareness of the importance of diversity in a broad sense.

The institutions should formulate clear expectations that all employees must bravely and freely use their voice and contribute to the development of a varied, diverse culture of debate. Tolerance of different views and opposing opinions should be cultivated – consensus is not an end in itself. Temporary employees may feel particularly insecure in voicing their opinions. In their personnel policy and strategy, the institutions should be aware of how temporary employment affects opportunities to create a good culture of free speech in academia.

The Commission would encourage the institutions to use Universities Norway as an arena for collaboration on the development of common systems, support systems and tools. There should also be scope for collaboration with other research-performing sectors such as hospital trusts and research institutes.

Astute leadership

Astute leadership starts in harmonious times, and a good organisational culture that promotes collaboration and expression is its most important instrument. However, culture cannot be created by the management alone, although the management does of course establish important premises. It takes time, energy, expertise and constant maintenance. Good academic culture comprises elements such as truth-seeking, equality, openness, transparency, curiosity and collegiality. How-

ever, it generally also requires democratic mechanisms, such as acceptance of decisions and the ability to implement adopted measures.

The Commission sees several ways to strengthen astute leadership at the institutions, including:

First and foremost, managers and leaders at all levels must have a good understanding of freedom of expression. What it is, why it is protected, how it is protected – and the conditions that must be met to be able to interfere with it lawfully and astutely. They must also have a good understanding of the relationship between academic freedom, freedom of expression and academic freedom of expression. This is described in section 3.1.

Managers and leaders at all levels have a responsibility to emphasise that academic freedom of expression, both in the form of academic dissemination aimed at the general public and active participation in the public discourse, is part of the mission of universities. All academic staff are expected to engage in this.

There should be ongoing discussion about how the management can contribute to more dissemination, a good culture of debate, open debates, and acceptance of relevant, but forceful disagreement. Managers must be trained to deal with academic disagreements and criticism, and to be visible and responsible, not evasive and passive, in the face of conflicts and seemingly irreconcilable dilemmas.

Managers can benefit from sharing tips with each other on what measures have been proven to work to make academic staff braver, more confident and more active disseminators. One way to do this is to have good routines for dealing with media storms. These routines must be prepared in calm times, so they are ready when a storm hits. Employees must receive training not only in media management, but also in how they can support each other in the run up to and after dissemination in the media that can provoke a storm of reactions. When these storms erupt, managers must quickly step in to provide support and should also encourage the employee's colleagues to mobilise, either in the public sphere, with valid arguments, or privately as supportive colleagues.

Management development is one of the keys to ensuring a good culture of free speech. In Norwegian universities and university colleges, heads of department, deans and institutional managers are employed on a fixed-term basis. In general, a head of department, dean or rector will be more closely identified with their current management

³⁰ See the discussion in section 6.5.2 and Mangset, M., Midtbøen, A.H. & Thorbjørnsrud, K. (eds.) (2022). *Ytringsfrihet i en ny offentlighet. Grensene for debatt og rommet for kunnskap* [Freedom of expression in a new public sphere. The boundaries of debate and the arena for knowledge]. Oslo: Universitetsforlaget. <https://doi.org/10.18261/9788215051017-2022>, chapter 8.

position, as opposed to their original academic position. Thus, there will be a tendency for any statements they make about academic issues to be regarded as reflecting the institution's view, rather than them expressing an academic opinion. Similarly, their statements will tend to be perceived more as conclusions from the management, rather than part of a conversation among equals. This puts academic managers in a unique position when taking part in debates. Their dual role means they must be extra vigilant in clarifying the capacity in which they are speaking and ensuring compliance with all the rules.

Like research and teaching, dissemination can spark controversy. This can be quite tough for the academic staff involved. The uncivil treatment they can experience in what Jürgen Habermas has called the «wild public sphere» can be particularly trying. The unedited media can be especially merciless. The hostile reactions that employees can be subject to here can be so ferocious that several of the consultative statements have compared it to a «war». Continuing this metaphor, we could look to those who engage in war for advice and ideas. Military leaders must know their own strengths and weaknesses and those of their soldiers. It is a question of mentally preparing yourself and each other for various «line of fire» situations and practising dealing with them. «It's not how you feel, but how you deal with things that matters – and how you deal with things is something you can actually work on.»³¹

Several researchers who have disseminated controversial research findings have stated that they felt completely alone in the heat of the battle. This can deter both the individual and their colleagues from engaging in dissemination activities. Managers at all levels, but especially immediate superiors, must follow up academic staff who get into this kind of situation. The experience is much more stressful for the individual concerned than it might appear from the sidelines. Visible management that provides support, encouragement and help with practical arrangements before, during and after dissemination can be a decisive factor for the individual. It can also have an impact on whether others in the team will dare to step into the spotlight when they have something on their minds. It is also important to create a culture where colleagues mobilise in these kinds of situations, to alleviate the individual's feeling that they are on their own. This support does not have to

entail public endorsement of the academic content or the controversial view, but a recognition that instigating debate and airing views is a natural and important part of the academic mission. It is a management task to support dissemination, even when one disagrees with the content of what is being disseminated.

It is important to have systems for «debriefing» once the commotion has died down. For these systems to work, all the parties concerned must be well-versed in all the procedures for support and follow-up before, during and after these kinds of «battles» – before they are needed. They also presuppose a sense of security and trust within the collegiate or a group of colleagues before the battles begin.³² Seen as a whole, these insights into handling «line of fire» situations provide a range of concrete guidelines for how managers can create a culture that can help ensure optimum handling of rough periods in connection with dissemination.

Astute leadership entails ensuring and communicating clearly that «unpopular» views will not be met with sanctions, such as a lower priority when awarding research sabbaticals or being given less meritorious teaching, etc. The criteria for awarding duties and privileges should be discussed in the relevant academic environment. Both the management and individual employees will benefit from the procedures for awarding duties and privileges being as clear and transparent as possible. It is difficult to entirely prevent all suspicion that someone might have been penalised for their unpopular stances, but transparency helps. People should be encouraged to voice any such suspicions openly, so that they can be listened to and discussed freely. The art is to make choices and priorities that have sufficient legitimacy without endless rounds of debate. This is difficult to achieve without openness, transparency and clear procedures for conflict resolution.

It is in the very nature of academic freedom of expression that there will always be some individual scholars or students who claim, without foundation, that they have been robbed of their freedom. Subjective experiences of restricted academic freedom of expression must be taken seriously, but they must also be supported by factual evidence to instigate intervention from the management to rectify the matter. Both the individual employee and the management will be better equipped to confront subjective dilemmas of the type: «I wrote an unpopular feature article, and

³¹ J.G. Reichelt, *Håndbok i militærpsykiatri* [Handbook of military psychology] (2016) p. 69

³² *Ibid.* p. 80 f.

the following year I was not granted a research sabbatical», if the institution and/or management are prepared for these kinds of situations to arise and have had training in the dilemmas they can cause. However, this is easier said than done. Managers must be prepared to – and be taught how to – deal with these kinds of claims without them leading to long, drawn-out processes. If the processes leading up to a decision have been open, predictable and sufficient, then all the manager has to do is refer to them, stand by the decision, and move on.

Teaching arrangements and statements made in a teaching context may interfere with academic freedom of expression. For example, people may experience that their freedom is reduced by the relatively rigid rules for programmes governed by National Curriculum Regulations. Managers may have to intervene in situations where an individual teacher's programme constantly receives negative feedback in student evaluations, has declining numbers of students or has consistently poor results in terms of examination statistics. Any dilemmas linked to student relations and teaching arrangements will also benefit from predictability that has been created through a discussion of how the team as a whole can implement changes to promote quality.

There may also be disagreements within the academic community about the content of teaching or situations where a teacher and the students disagree in respect of the content presented. These are real dilemmas, where the academic freedom of the individual teacher will enjoy strong protection. This does not mean that the disagreements should not be addressed, but rather that this must be done through an open, truth-seeking and balanced academic debate. In these types of discussions, it is also important to emphasise that the students must receive training in academic freedom of expression and what it means to engage in an academic exchange of opinions (cf. section 7.4.3).

Astute leadership does not mean abdicating one's responsibilities as a leader when academic freedom of expression needs to be defended and stimulated. On the contrary, the management should ensure there are legitimate arenas, such as seminars and academic forums, to stimulate prejudice-free debate. This applies not only internally in the unit the manager is responsible for, but also through participation in external events and by inviting the outside world in. Dilemma training can help ensure a good balance is struck, not only for the managers, but for the entire team.

Box 7.3 About management

In the past, many people thought academic freedom was about the management being hands-off. Now it means managers must actively support their staff.

Tanja Storsul, Director, Institute of Social Research, at the Management Forum for Research Ethics on 26 November 2021

<https://www.forskningsetikk.no/aktuelt/akademisk-frihet-krevert-aktivt-lederskap/>

7.4.3 Training and cultural development

Knowledge requirements for everyone in academia

Institutional academic freedom (i.e. institutional autonomy) entails that systems and routines for training in academic freedom and academic freedom of expression must be developed by and anchored in the individual institution. In this section, we point to some of the training needs that the Commission has identified through its work. Many of these are general and apply to everyone, while some are specific to either staff, students or management. The institutions are responsible for ensuring that the necessary training is provided.

As noted in section 7.2.2, the Commission has gained a clear impression that it cannot be assumed that the management, university employees or students are familiar with the fundamentals of academic freedom and freedom of expression. Without this kind of knowledge, it is difficult to fulfil the statutory tasks ascribed to the institutions pursuant to section 1-3 of the Universities and University Colleges Act and fulfil the purpose defined in section 1-1.

The institutions currently have systems and routines to provide their employees with the training necessary for them to be able to fulfil their research and teaching tasks. With the Commission's proposal for a new third paragraph of section 1-5 of the Universities and University Colleges Act, they will also be explicitly responsible for having systems and routines for training in academic freedom and academic freedom of expression (cf. section 3.1).

This is important for the fulfilment of all the work duties at academic institutions, but especially for the dissemination tasks that academic staff and students perform – and which the man-

agement and other employees in various ways support and enable.

The broad civic mission to which the dissemination aspect of academic work contributes cannot be fulfilled without good knowledge of the grounds for freedom of expression and the role academic freedom of expression plays in the pursuit of truth. This means that everyone who exerts an influence on the academic staff and students' exercise of academic freedom of expression must have basic knowledge in this area. This applies, for example, to employees in personnel departments, teaching departments, research administration, communication departments and the people who elect and are elected as board members.

Training programmes for new employees must provide good knowledge of academia's civic mission in its broadest sense, with a focus on how academic freedom of expression is essential for the fulfilment of this mission. Academics who have been trained in countries or cultures where academic freedom of expression is weaker or is administered more hierarchically should be given special support. This is not only to ensure they understand the expectations the institutions have regarding everyone's duty to contribute to fulfilment of the university's dissemination mission, but also to ensure they understand the acceptance that everyone – from students to professors – contributes.

The nuanced understanding needed in key parts of institutional management and among the academic staff cannot be achieved through a one-off course. It requires sustained training in the kinds of dilemmas and balancing of different considerations that the exercise of the various freedoms can give rise to. Ideally, training in academic freedom of expression should be a key element in the long course of academic education that all scholars go through – starting from when they are students and continuing throughout their entire academic careers.

The consultative input that the Commission has received indicates that there is a serious need for better knowledge of and training in good debate etiquette. This need also exists at all levels of academia, and overlaps with both training and cultural development: the rules for good debate etiquette can be learned. Adhering to and maintaining good debate etiquette requires ongoing training and practice.

The pursuit of truth requires openness and good listening skills, not merely insisting on one's own views and opinions. While this may appear

obvious, it is often very difficult to implement in practice. For someone to become wiser and gain (and create) more insight, exchanges of opinions must be reasonably unbiased, objective and fair. They must be free from distorted readings, bullying, personal attacks (*ad hominem*), straw-man argumentation, and tendentious renderings of other people's views. It is crucial that all the parties interpret each other's statements charitably, reproduce each other's arguments fairly, and aim to construct the counterparty's arguments in the best possible manner – for their sake.

Arne Næss' norms for objective debate and Jürgen Habermas' preconditions for an ideal speech situation can be good starting points for constructive discussion in this respect. They can also provide a basis for training in and understanding of how truth-seeking debate can take place. They make it possible for people to discuss factually and rationally, even in situations where they strongly disagree. They pave the way for the conduct of argumentative battle in an orderly form and provide guidelines on how to reach agreement – or justified disagreement.

Good debate etiquette also requires a reasonable degree of collegiality and sense of community among academics, both staff and students. The consultative input the Commission has received indicates that this kind of collegiality is lacking in many places. This may indicate a need for training in why collegial support is important and how a sense of community can be cultivated and nurtured. The goal is not to always agree or to reach agreement, and sharp exchanges of opinion may also be entirely justified and fruitful. However, it is a good idea to show support for each other's dissemination and engagement, regardless of any disagreements about both content and form. Or perhaps even, especially when you disagree. In situations where scholars are subjected to a great deal of opposition, colleagues can support one another – either by participating in debates in a nuanced, enlightening way, or by directly supporting the individual who is in the line of fire. In the event of unreasonable or unfounded attacks in the public sphere, this kind of collegial presence can be particularly important: Being opposed is one thing, but the feeling of being all alone in facing it can be far worse.

The seeking of truth also requires knowledge about sources of error, so that these can be corrected for. In this respect, insight into human error and cognitive biases, for example, are important. It is crucial to understand both how they can lead to fallacies in one's own investiga-

tions and reasoning, and also how they might affect the audience for the dissemination.

It can be highly demanding to maintain one's composure in the face of strong opposition from other academics, even if it is reasonably relevant and justified. It is often even worse in the non-academic forums where suspicions, unreasonable claims and conspiracy theories are often rife. Maintaining one's composure and impartiality is probably even more important when conducting dissemination activities in these kinds of public spheres.

First, this presupposes that academics must comply with the fundamental rules of fair argumentation – even if the parties they are arguing against do not.

Second, academics need to be reasonably well versed in communication methods that encourage people to relate more openly to new ideas, rather than simply seeking confirmation of their existing views.

Prejudice cannot be cured by reference to facts alone. Attempts at enlightenment by «simply» stating that something has been scientifically proven or disproven may in some contexts reinforce people's belief in myths rather than weaken them.³³ When trying to refute persistent myths, it is important to refrain from getting on board with the narrative on which they are based. Instead, offer alternatives that are scientifically well proven, explain why central foundations on which the myths rest are wrong, and explain the actual reality using understandable references to research.³⁴

Media training

Academics need training to understand that the public sphere is «wild» – that it is not an academic seminar. This sets completely different demands in respect of general overview, speed, brevity and form. Academics need to be able to distinguish irrelevant comments and expressions of disapproval from valid criticisms that can be used constructively. They also need to learn not to take the former to heart, but to be willing to interact with others. Like most people, academics are only

human. People have different thresholds for how much public opposition they can tolerate – including harsh, but legitimate and important criticism. Because they have a special dissemination mission, academics must be trained to withstand at least those forms of opposition that are necessary for genuine exchange of dissenting opinions and the search for truth. To this end, they must be given the tools they need to deal with public spheres that can differ quite markedly from academic forums. They can of course seek advice from more media-savvy colleagues – and more media-savvy colleagues can offer help, advice and support before, during and after media appearances. However, it remains an institutional responsibility to ensure training and space for dissemination.

Media dissemination often requires simplification. Simplifying academic insights can be very demanding. It often requires a very good overview not only of the field, but also of how the content being conveyed is related to other fields, and how it can be linked to concepts and examples that are familiar to people other than peers in the same field. Most people are not stupid, but they need to be guided into and through the content starting from step one, even if the researcher is currently on, and most interested in, step 17. It is often best to present the conclusions and findings before (or instead of) the process that led to the conclusions. Good editors or research journalists, or communication staff at the academic institutions, can help researchers with simplification and creating engaging presentations.

To simplify well, you need to know your target audience – who reads or listens in the channels you are disseminating into? What is the standard genre or tone there? What has been said about similar topics before? What perceptions of reality and questions are central?

It is impossible to communicate and simplify without good language skills and proficiency. People who do not have good language skills should be helped to develop them. In addition to training in academic and technical language, training and practice in the use of clear language is also required. Employees whose first language is not Norwegian, and those students who wish to do so, should be ensured good Norwegian language training, both in writing and orally.

Dissemination in the media also requires an understanding of how different media work and the motivations behind them. As pointed out in sections 6.2.4 and 6.2.5, the civic missions of academia and journalism have several commonali-

³³ See Nyhan, B. and J. Reifler (2010). When Corrections fail: The persistence of political mis-perceptions, *Political Behavior* 32 (2), pp. 303–330 <https://link.springer.com/article/10.1007/s11109-010-9112-2>

³⁴ See, for example, Lewandowsky, S, et al., *Debunking Handbook 2020* <https://www.climatechangecommunication.org/wp-content/uploads/2020/10/DebunkingHandbook2020.pdf>

ties, but there are also some differences, which may dampen scholars' readiness to undertake dissemination activities. Good dissemination requires a shared understanding of each other's goals and methods. In the same way that academics must understand the basics of the objectives and methods in other fields in order to participate in interdisciplinary collaboration, they must also have a basic understanding of the civic mission, methods and tools of the media in order to be able to collaborate well with them. Knowledge of the ethical rules for the media is also important, including understanding of and preventing the kinds of situations described in section 6.2.5.

For example, academics need to understand the difference between different dissemination genres. In written dissemination, an example of the significance of this is the difference between feature articles for publication in a newspaper and interviews: As long as the author stays within the character limit and writes reasonably intelligibly, they will have reasonably good control over the presentation of the content in a feature article or guest opinion article. The heading and introduction may be modified by the editorial team, but the content and angle are given. By contrast, interviewees have less control over the content and angle of the piece. Even when a quoted person gets to check and approve the quotes assigned to them, the angle the media finds interesting may be quite different from what the interviewee envisaged, with a main focus on elements that they themselves find to be less significant. It is important to be aware of this not only in connection with one's own dissemination, but also when reading about the views and opinions of colleagues. Sensational statements in a feature article should generally be interpreted charitably: Is there a kernel of something important there that you are overlooking because you are getting distracted by the way in which it has been presented? If a colleague is portrayed in a shocking or provocative manner in an interview, it can be a good idea to find out whether something has been taken out of context or blown up out of proportion before launching a full-scale attack on the person in public.

You also have to learn to deal with «stupid questions». Most journalists are not stupid, but nor are they peers. They need an introduction to the subject matter. As is the case with students, «stupid questions» must be responded to with advice and guidance. Explain what questions it would be appropriate to ask instead, to ensure

focus on what is important and contribute to understanding and new insights.

Many academics actively communicate their knowledge and participate in discussions in the broader public spheres in unedited media, both in normal times and in times of crisis and war. There are several good examples of how academic dissemination has quickly filled information gaps and needs for new knowledge during both the COVID-19 pandemic and the war in Ukraine. Dissemination in unedited media opens up a whole range of possibilities – and challenges. Understanding of different genres is also essential for successful dissemination in these kinds of media. Different platforms have different tones, formats and trends. Dissemination without regard to this can easily go awry. Dissemination in these channels must also be learned and practised. This requires basic understanding of the way in which the online public spheres and platforms work. In this context, it is essential to understand how different algorithms can help accelerate the effects of our prejudice-based, group-reinforced misconceptions. It is also important to learn how standard linguistic usage and interpretation are challenged in bubbles and echo chambers characterised by tribal speak, memes and other distinctive forms of communication.

As highlighted in section 6.2.5, a great deal of misinformation is spread in online public spheres. It is difficult to detect and to correct. Populism, contempt for elites and various targeted campaigns can generate threats and intimidation. The institutions must have routines to detect illegal conduct and report it to the police. People who voice an opinion publicly may find themselves subjected to personal attacks, «comment wars» and twitter storms that, whilst fully legal, are overwhelming and thus extremely burdensome. And the harsher the public spheres become – or at least appear to be – the worse it is.

This places particular demands on disseminators' need for training and mental preparation, and good routines for supporting the individuals who are in the line of fire from colleagues, management and administrative staff. The management responsibilities in these kinds of situations are discussed in section 7.4.2. In addition to good management and leadership, we know from the experience of other groups in society that take part in real warfare and are in real physical danger that collegial support is essential for the individual employee or student who finds themselves in the line of fire. It is important to create a culture where students and colleagues also mobilise in

these kinds of situations, to alleviate the individual's feeling that they are on their own. In order for debriefing systems to work, the parties involved need to be well versed in the procedures for support and follow-up before, during and after the «battles» before a crisis arises. They also require that a sense of security and solidarity among colleagues (both immediate and further afield) has been well established in advance.³⁵ The support that individuals can receive from their superiors and colleagues during and after hostile public situations presupposes something that is generally in short supply in many parts of academia: a good collegial culture, a sense of community and the experience that the search for truth that the individual is working towards is a common goal.

In respect of students

Students also need knowledge about «the what, the why and the wherefore» of academic freedom and freedom of expression. They need to practise and gain confidence in exercising their academic freedom and the freedom they have to impart and receive different types of knowledge. They must learn why and how they can contribute to the exchange of opinions about all aspects of academia, including the teaching they receive. They must also receive training in how freedom of expression can be used in ways that further the seeking of truth, the promotion of democracy and the individual's freedom to form opinions.

Students also need good knowledge about freedom of expression as a prerequisite for the pursuit of truth in order to be able to participate in matters that concern them at educational institutions. Students are an integral part of the academic community. They must be encouraged to express themselves freely and to contribute to this community. And they must be able to do this without being seen as a threat to academic freedom and unfairly accused of engaging in «cancel culture». Student protests against controversial speakers or lecturers are an important part of the students' freedom of expression. However, if the aim of the protests is not only to express opposing opinions, but also to exclude certain views or prevent the genuine exchange of opinions, they may actually serve to undermine academic freedom of expression

Rather than fostering a culture where students and academic staff are opponents, the institutions should consider what can be done to cultivate a culture of free speech in which students and lecturers can have ongoing constructive dialogue about the content of the education.

Freedom of expression and academic freedom of expression are particularly important in some programmes, such as communication, journalism and media studies. The Commission recommends that the institutions review the content of these programmes with a focus on ensuring that the students gain insight into what academic freedom of expression is and why it is important, as well as into the dilemmas and challenges that academics may encounter (cf. chapter 6).

Managers and others in leadership roles

As described in section 7.4.2, good management is essential to ensure a good culture of free speech at universities and university colleges. It is therefore essential that managers and leaders at all levels receive the training necessary to understand the responsibility they are assuming and the opportunities at their disposal. One way in which higher education institutions can exercise their responsibility is by having systematic management development and training as an ongoing activity. Management development programmes should include training in the necessary knowledge components, such as an introduction to the relevant legislation and regulations, labour market schemes, occupational health and safety, etc. – plus a separate component on academic freedom of expression.

Managers must have a thorough understanding of what academic freedom of expression is, why it is essential for academic work, and what it takes to ensure it can be safeguarded and protected. To achieve this, managers at all levels must also have good knowledge about the workings of the various parts of the broader public sphere, and what opportunities and challenges this may entail for the institution and its employees. This is closely linked to media training (see below).

The management must constantly consider how it can stimulate more and better academic freedom of expression. Dilemma training and examples can be useful in this context, ideally based on real-life cases and experiences. Chapter 6 of this report provides examples of the kinds of dilemmas that might arise, that can be used for discussion and training.

³⁵ J.G. Reichelt, *Håndbok i militærpsykiatri* [Handbook of military psychology] (2016) p. 80 f.



BE CONSCIOUS

WHEN YOU APPEAR IN THE MEDIA

NINA WILL BE VISIBLE AND INNOVATIVE IN ITS DISSEMINATION OF KNOWLEDGE

- We communicate NINA's comprehensive and interdisciplinary knowledge of nature and society
- We are active and visible in the public debate concerning NINA's areas of expertise and knowledge
- We use innovative tools and forms of communication

BE CONSCIOUS OF:

- That you assess the relationship between your role as a scientist and a socially involved citizen
- That you are honest with reference to science and all facts
- That you respect others' results, roles and opinions
- That popular dissemination and written expressions of opinion are read and commented on by experienced colleagues or by the management
- Of your own role if you comment on or make recommendations with reference to political processes or value based issues
- That you represent NINA all the time

CHECK THE CONTENT IN CONTRACTS:

- Property rights to the product and results, as well as how the results are to be made public, are to be included in the contract
- Clarify expectations with the contractor at the start-up of the project, it is vital for good and co-ordinated external communication
- Inform the media as to who is the commissioning party
- The contractor should always be informed about any contact with the media

GOOD ADVICE:

- Presentation of facts is OK
- Presentation of analyses and assessments is OK
- Write simply and plainly
- If representatives of the media call, you should ask for time and tell them when you are ready
- You have a right to read what you have been cited on
- Be available for follow-up
- You should always inform the management or NINA Communication about feature articles and issues that may receive a lot of media attention

**If you are in doubt;
seek advice from your
own manager or NINA
communication!**

02.03.2021/NINA



Cooperation and expertise for a sustainable future

Figure 7.1 Example from NINA – the Norwegian Institute for Nature Research

Active use of academic freedom of expression can create challenges for managers. Academic debates can often become quite heated, and can be experienced differently by both the participants and the surrounding academic community. Statements that one party perceives as factual, relevant and professional can be perceived by others as highly critical and sometimes even tantamount to bullying. This can have a negative effect on the working environment and limit the arena for academic expression.

In these kinds of situations, there are expectations of the institution's management, primarily at the lowest (and most important) management level, i.e. the head of department. Many situations are resolved at this level, through active leadership that allows for expansive, open dialogue, and where the parties are encouraged to highlight their disagreement in a constructive way with the search for the truth as the common purpose.

However, in situations where conflicts escalate and become drawn out, ambiguous and weak leadership is often a problem. Disagreements within the academic community spread, more people get involved, and the working environment deteriorates. Heads of department frequently report that they feel completely alone in situations such as this and are at a loss as to how best to deal with it; i.e. how they can foster a good working environment without stifling necessary debates.

The Commission holds that well-organised, continuous management development programmes for all managers is a good means of preventing drawn out conflict situations concerning academic freedom of expression, thereby fostering security within the team and greater latitude for this freedom to be exercised. In this context, collegial guidance is emphasised as an important conflict management tool. Development groups consisting of several managers (heads of department) from different academic communities, but who are on the same administrative level, can be a great resource when conflicts start to escalate. Being able to discuss the matter in confidence with a colleague who has «been there, done that» can be perceived as relieving, supportive, and crucial to avoid escalation, unnecessary time wasting and further conflict.

We would encourage the academic institutions to systematise their management development, either within their own institution or in partnership with others. As academic communities, the management team must also continuously develop and learn, in order to maintain an acceptable standard. As a means of preventing conflict,

managers should raise awareness among their teams of good practice and etiquette in the academic arena of expression, but also about the mechanisms for handling conflicts that are available to the management.

7.4.4 Assessment of academic careers, appointments and reward systems

As noted in section 6.4.3, little weight is attached to dissemination activity in academic recruitment and appointment processes. The institutions should work actively, purposefully and systematically to improve dissemination to the general public and prevent silence and poor conditions for dissemination. This means that the institutions should also emphasise dissemination in their recruitment work and employee development, and create reward systems for dissemination.

Reward systems for dissemination

The institutions should create transparent reward systems for dissemination, which must be assessed and updated regularly. There should be clear criteria for how efforts to disseminate beyond one's own academic community can contribute to pay rises and promotion or being awarded privileges in line with the criteria describing the importance that is attached in terms of performance, skills and experience in education, research and innovation.

In order to promote and ensure support for the reward systems, attention should be drawn to dissemination aimed at the general public, in line with the way that news of scholarly publications is celebrated and shared at the workplace. If the team has a noticeboard for sharing news about publications, it can also have one for dissemination activities. If stories about research and teaching are regularly featured in newsletters, on the intranet or website, stories about dissemination activities should be feted correspondingly.

Attach importance to dissemination skills

The institutions should include dissemination in the existing systems for weighting of qualifications in connection with recruitment, appointments and promotions. The criteria for how dissemination is weighted should be explained, with information on how dissemination results, expertise and experience can be documented, to avoid any unnecessary doubt about what impact «likes

Box 7.4 The value of being wrong

I hope the Commission will underscore the value of being wrong. Often correct statements are lauded, while incorrect contributions that were rejected along the way are written off as a «failure». I hope the Commission will emphasise the value of expressing erroneous opinions on the way to finding the «truth» or best solution. Erroneous expressions of opinion may help nudge others on to the right track or help others see things more clearly. Mill highlights this himself in *On Liberty*, for example when he writes that erroneous statements lead to «clearer perception and livelier impression of truth produced by its collision with error» (chapter 2). Mill thus believed that erroneous expressions of opinion imply «almost as great a benefit» as correct ones.

Ellen Hovlid, Associate Professor at Volda University College. Consultative statement to the Commission dated 15 December 2021

«[T]he peculiar evil of silencing the expression of an opinion is that it is robbing the human race, posterity as well as the existing generation – those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth produced by its collision with error.»

J.S. Mill, *On Liberty* (1859), II.

and dislikes» on the content of the dissemination may have had.

The Commission would encourage the institutions to include expectations regarding dissemination in the employment contracts. We also recommend making it transparent and clear as to how dissemination can be assigned greater weight in connection with recruitment, appointments and promotions and when awarding privileges. The NOR-CAM guide for recognition and rewards in academic careers can be a good starting point for the institutions in their assessment of academic careers.³⁶ Among other things, it also highlights the need to reflect on individual dissemination activities outside academia. The Commission asks the institutions to assess how they can develop the ability of their employees to assess their own dissemination results and dissemination skills.

In order to ensure their work on dissemination activities is active, purposeful and systematic, the institutions should systematise and specify this in work related to strategies, recruitment and promotion, employee development and reward systems.

7.4.5 Dissemination aimed at the general public as a component of doctoral degrees

Doctoral work is central to the training of researchers. A doctoral degree requires the production of high-quality research of a publishable standard. Some PhDs also include a teaching component, for example such that a three-year doctoral programme can be taken over four years if one of the years is (also) used for teaching. Most PhDs can currently be completed without any requirements relating to the dissemination component of the academic mission.

As discussed in section 6.4.3, it is unclear whether dissemination is ever emphasised – both during the PhD period and later on during a career in academia. When bibliometric data (with or without financial support) provide strong incentives to disseminate to a narrow, specialised audience, lower priority is given to broad public dissemination tasks. Lack of time has an even stronger demotivating impact in fixed-term positions where time is clearly limited.

In addition to the research and academic publication that forms the basis of the thesis work itself, doctoral programmes have a compulsory academic training component of a certain number of credits, where the modules taken must also be

³⁶ See the description of NOR-CAM in section 5.3.

relevant for qualification as a researcher within the discipline. The content and scope of the training component vary from discipline to discipline. A number of institutions and disciplines have dissemination aimed at the general public as part of the credit-earning researcher training programme. Some also provide ECTS credits for popular science articles in addition to presentation of texts or research work at scientific conferences, etc. The Commission encourages all institutions to ensure that training in, and ideally also recognition for, dissemination aimed at the general public is part of all doctoral programmes.

In addition, PhD candidates report a lack of training in, assistance with and arenas for dissemination. «We need to know how to make good websites that people actually want to read, and we need simpler systems for streaming lectures and producing audio and video podcasts. We need our colleagues to notice and praise our dissemination efforts, at the same time as we have to endure endless ‘constructive criticism’ and feedback on the quality of our dissemination», as it was put in one of the consultative statements to the Commission. The communications departments at the institutions can play a key role in addressing the first part of this need.

The second part requires changes in academic culture, but also systematic and explicit expectations regarding dissemination aimed at the general public of knowledge from one’s own research and field of study. Good dissemination requires formal training, but also plenty of practice. Practice in disseminating is crucial not only for those PhD students who intend to pursue a career in academia, but also for those who take their doctoral competencies out into other segments of society.

Ideally, the dissemination component of PhD programmes should also be reflected in formal reward systems such as salary, promotion, etc. Systems to measure dissemination activities should be discussed and agreed on in a way that makes them predictable and relevant to everyone. Systems for these kinds of expectations can be established at the university, faculty or departmental level. The Commission recommends that they be established at the university level.

One place to start may be to introduce a requirement that all doctoral theses must include some form of dissemination aimed at the general public in order to be approved. This will give PhD students practice in dissemination, providing them with an understanding of what dissemination is and why it is important. Last but not least, it

will give something back to the society that funds the organised research training, which may in turn promote understanding of the importance of and confidence in research.

The Commission recommends that institutions introduce a requirement that all dissertations and theses must include some form of dissemination aimed at the general public. The requirement can be met in many ways – for example in edited media, such as feature articles, guest opinion articles, interviews or debate articles, in podcasts, as texts published on an institutional website, or as a well-formulated twitter thread. This kind of requirement should be implemented at the individual institutions and can be included in the contract that the individual institution enters into with the PhD candidates.

7.4.6 Norwegian in academia

The Commission discusses why academic freedom of expression is important in section 3.2. Valid knowledge is a prerequisite for understanding, arguing and exerting an influence in a democratic society. It is important for society and academia to communicate basic knowledge to the population, and to make people realise that this knowledge is the result of research conducted over a long period of time and investments in the knowledge society. The dissemination of this knowledge must also take place in the language that is the common language in Norway. Free, knowledge-based discussion and criticism are prerequisites for scientific advances – and for these to be able to be exploited for the common good.

The review in section 5.5 shows that Norwegian is being increasingly less used in higher education in Norway. Debate on the use of Norwegian vs. English in Norwegian academia is discussed in section 6.4.6.

The Universities and University Colleges Act Commission³⁷ explained why Norwegian academic and technical language is important:

Having functional Norwegian terminology and technical expressions is very important in most areas of society, including for the ability to discuss research in the public debate in Norway. The Commission agrees that knowledge acquired in an educational institution will also be spread and used in other sectors. In order for graduates to be able to communicate well with pupils, users, clients, patients, etc., they

³⁷ Official Norwegian Report (NOU) 2020: 3, chapter 14

need a good, comprehensive vocabulary that anyone who uses Norwegian in their everyday speech can understand. If the people who do research and teach at universities and university colleges largely switch to, say, English words and phrases in medical and nursing education, this may affect how health professionals communicate with patients, which may in turn lead to greater distance and alienation between health professionals and their patients. This also applies in other disciplines. Without a well-developed and functional Norwegian academic and technical language, parts of the public debate are also in danger of deteriorating. It is therefore important that all institutions that offer higher education enable and actively participate in the development of Norwegian technical terminology that in turn can be used in other parts of society.

International collaboration is important for the quality of the knowledge produced in academia. English is and must be used at institutions and among academic staff, and academic publication must and should often be in English. In this context, the Commission would point out that the use of English and the safeguarding of Norwegian academic and technical language are not mutually exclusive. The challenges that internationalisation presents for Norwegian academic and technical language can and must be addressed using targeted measures. This means that the institutions must bear these factors in mind in connection with their internationalisation work.

In its consultative statement to the Commission, the Language Council of Norway identifies three factors that are important for ensuring that research is communicated to and rooted in a Norwegian-speaking society. The first is development of Norwegian academic and technical language in line with developments in research in the various fields. The second is making provisions to ensure that employees have the time and resources to disseminate their research in Norwegian. The third factor is related to non-Norwegian-speaking employees: Steps must be taken to enable them to communicate their research in Norwegian, preferably by them learning Norwegian, but also through the provision of translation, language editing and proof-reading services. The Commission agrees that this is important.

Academic and technical language

In the letters of allocation and letters of grant commitment to the universities and university colleges for 2022, the Ministry of Education and Research has taken important steps to strengthen Norwegian as an academic and technical language. Requirements have been included regarding Norwegian classes for foreign researchers and teachers, the responsibility for maintaining and further developing Norwegian academic and technical language has been clarified, and there is a reminder that all the institutions must have a language strategy rooted in their overarching strategies. The Commission assumes that these will be followed up by the institutions. The institutional language strategies must incorporate the Language Council of Norway's recommendations.

The new Terminology Portal (discussed in section 6.4.6) will play a key role in making Norwegian terminology (both Bokmål and Nynorsk) available in one place. The goal is for the portal to become the first place students, professionals and others go when they need Norwegian academic terminology and expressions. This may strengthen Norwegian academic and technical language in several ways:

- It will be easier to develop textbooks in Norwegian with good, coordinated terminology.
- It will be easier for students to talk and write about their subject in Norwegian.
- It will be easier for employees with an international background to acquire the skills they need to teach in Norwegian.
- Experts in a particular field will have greater control over how the subject is presented in Norwegian in that journalists and others outside the discipline will not have to try to translate technical terminology into Norwegian themselves.

The Terminology Portal is currently a long way from covering all disciplines. The Commission would therefore draw attention to the need for the higher education sector, as an important bearer of the statutory responsibility for Norwegian academic language, to work on terminology in a systematic, long-term manner. The Language Council of Norway is a natural partner in this work.

The Commission holds that the institutions must make arrangements that enable employees to contribute to lexical reference works like encyclopaedias. Trust in knowledge production at Norwegian research and educational institutions will increase as the average Norwegian internet user

becomes accustomed to seeing understandable texts on areas of expertise written and signed by Norwegian academics. This will in turn strengthen the basis for Norwegian academics being able to actively participate in the public debate, thereby also promoting the freedom of expression of academics. The Commission also proposes that contributions to encyclopaedias and other reference works should be included in the proposed dissemination indicator (see section 7.3.2).

Norwegian abstract in doctoral theses

The Commission holds that it is important to introduce a requirement for public universities and university colleges that all doctoral theses and master's and bachelor's dissertations written in a foreign language must have an abstract in Norwegian. This will help ensure the development of Norwegian technical terminology and thus strengthen the work on Norwegian academic and technical language as a basis for dissemination of research findings. This requirement should also apply to private institutions.

The Commission therefore requests that the Ministry establish a regulatory requirement for a Norwegian abstract in all doctoral theses. The requirement needs to be prescribed by regulation in order for it also to apply to private universities and university colleges, as well as to ensure a more permanent arrangement. For international PhD candidates and students who are not sufficiently proficient in Norwegian, the institutions should provide translation assistance or offer additional language editing and proofreading. We would also encourage the institutions to work to ensure that these abstracts are made publicly available, so that they are easier for the media and other interested parties to access.

Training in Norwegian language, culture and society

Norwegian language training for international employees is and must remain an institutional responsibility. Most international academic employees at Norwegian universities and university colleges have a clause in their employment contracts stipulating that they must learn Norwegian within a specified period of time. Media reports suggest that the speed and ease with which international academic employees acquire Norwegian language skills is highly individual

and varies widely. There is also wide variation in the degree to which it is prioritised by the employer. There is much to indicate that the provisions from the employer in this respect are often not good enough, both in terms of the courses offered and with regard to the time allocated to learn Norwegian. The Commission urges the institutions to take greater responsibility for providing Norwegian language training. This training must be part of a planned, coordinated strategy for international recruitment (see also the discussion in section 7.4.2). The training should include both Norwegian language teaching and an introduction to relevant cultural aspects of Norwegian society.

Textbooks

In its submission, the Norwegian Non-Fiction Writers and Translators Association (NFF) stressed that the higher education sector must take steps to ensure that academic staff can contribute to the production of textbooks. The Commission supports this, as textbooks are a very important source of accessible, understandable knowledge.

Textbooks can be regarded as a special form of dissemination and cannot really be compared with the types of activities that are envisaged for inclusion in the proposed dissemination indicator. The Commission has therefore not included textbooks into the proposed dissemination indicator (see section 7.3.2).

It is nevertheless important for many reasons – and in this context for the development of Norwegian academic and technical language – that textbooks are written. Students also need exposure to Norwegian academic and technical language, partly in order to be fully inducted into the subject they are studying, but not least to be able to transfer knowledge and terminology to working life. The majority of the students will go on to work in a Norwegian-language working environment. The government's support scheme for textbooks to ensure there is syllabus literature available in Norwegian and Sami must be continued at a level that is adequate to fulfil the purpose of the scheme.³⁸

³⁸ The Directorate for Higher Education and Skills (HK-dir), formerly Diku, administers the textbook scheme for higher education. <https://diku.no/programmer/laerebokordningen-for-hoeyere-utdanning>

7.5 Academics' responsibilities: Advice to promote good dissemination

Irrespective of legislative amendments, incentives and institutional arrangements to promote dissemination, academic freedom of expression will never be better than academics make it.

The individual employee and student must exercise and administer the freedom and responsibility necessary to ensure adequate latitude in the public sphere for debate and the exchange of ideas to be able to take place, and to populate this space in a way that facilitates the seeking of truth. Only in this way can we together contribute to good exchange of knowledge, dissemination and enlightenment. We must create the culture of free speech we want – for ourselves, for our colleagues and for society. Every single day.

In order to stimulate a better culture of free speech, the Commission has created a code of «ground rules» for free speech. They are intended to serve as a checklist for everyone who wants to

Box 7.5 Ground rules for free speech

These ground rules for free speech can constitute a useful framework for academic freedom of expression. They are intended to serve as a checklist for everyone who wants to promote a good culture of free speech.

1. Use your freedom of expression and freedom of information, also outside academic circles.
2. Be brave, objective, honest and accurate with facts.
3. Seek the truth, support disseminators, and welcome opposing views.
4. Be an open-minded reader and listener, and a reasonable and generous colleague.
5. Interpret opponents' arguments in the best possible way – for them.
6. Attack the ball, not the player. Use arguments, not personal attacks.
7. Be friendly, even if you disagree.
8. Mistakes can be important. Acknowledge them – your own and others'.
9. Know when to turn back. There is no shame in changing your mind – indeed, it is an academic virtue.
10. Conduct yourself with consideration – you are an ambassador for academia.

promote a good culture of free speech. See box 7.6.

7.6 Advice to the authorities

7.6.1 National

The public sector as a research client

In connection with commissioned research, there is often very little time for dissemination of results. This is something both parties must be aware of. In particular, the Commission would encourage all public research clients to ensure that there is the time and opportunity for dissemination of the results of commissioned research. As a minimum, there must be full transparency about the results, research data, etc., but they should also consider allocating time and funding for dissemination activities. This will help strengthen confidence in the results, including both the results of the specific assignment and research in general, and in the knowledge on which public sector decisions are based.

The Project Bank

The Research Council of Norway's «Project Bank» presents statistics and information on projects funded by the Research Council of Norway (NFR), EU projects with Norwegian participants, and projects that have been approved under the SkatteFUNN R&D tax incentive scheme.³⁹ The Project Bank provides access to information about publicly funded projects and can be useful for public employees and/or journalists in their work. Abstracts in Norwegian will both contribute to the development of Norwegian academic and technical language in several areas, and ensure that it is more easily adopted and used. It will also contribute to the implementation of the strategy for Norway's research and innovation cooperation with the EU,⁴⁰ one objective of which is that state support systems should strengthen the dissemination and use of research results. The Commission therefore asks the Ministry of Education and Research to instruct the Research Council of Nor-

³⁹ The Research Council of Norway (NFR): Prosjektbanken [the project bank] <https://prosjektbanken.forskingsrådet.no/>

⁴⁰ The Norwegian government's strategy for Norway's participation in Horizon Europe and the European Research Area (2021), section 4.6 <https://www.regjeringen.no/contentassets/68895f46b6f34f1a9294ca3be7d25265/212540-kd-strategi-horizonteuropa-web.pdf>

way (NFR) to ensure that abstracts in Norwegian are also published for all the projects in the Project Bank.

Political awareness regarding academic freedom of expression

In all their communication, including both political statements and administrative follow-up, the authorities should highlight academic freedom of expression as a crucial part of the universities' mission. The Minister's governance signals are important – in all arenas.

As the Commission described in section 7.3.1, the development agreements between the owner and the individual university are a good place to set differentiated expectations for the various institutions.

In view of their capacities as both responsible authorities and sources of funding of universities and university colleges, politicians and authorities have power over the sector and huge influence in the public sphere. It is important that they are aware of this power when expressing opinions on issues related to academia.

Politicians are of course also free to criticise academia in general and individual research findings and fields in particular. Ideally, this kind of criticism should be objective and well-founded, and preferably underpinned by valid arguments, ensuring it too contributes to the search for truth. Personal attacks or unfounded insinuations about the hidden agendas of experts with whom one disagrees, such as reference to «dark counterforces» undermining the Norwegian fishing industry, have no place in the search for truth. These types of political statements can also erode the confidence that academia relies on in order to be able to contribute to a knowledge-based democracy.

Open access research

The government's long-term plan for research and higher education 2018–2028⁴¹ states that there is a need to make national and international research more easily accessible to the public administration, the business sector and the general public. Openness, transparency and knowledge sharing are prerequisites for all research,

⁴¹ White paper Report no. 4 to the Storting (2018–2019) *Langtidsplan for forskning og høyere utdanning 2019–2028* [Long-term plan for research and higher education 2019–2028].

and greater openness in research is important for a number of reasons. It can contribute to more and better use of knowledge by providing access to the results of research for the research community as a whole, professional users in working life and industry, and the general public. In this way, greater openness in research may also contribute to smarter service development in the public sector and new business opportunities. A separate, but equally important, point is that greater openness and better insight into research can help strengthen confidence in researchers and research findings.

In its policy for open research,⁴² the Research Council of Norway (NFR) outlines a comprehensive approach to work in this area, with specific measures to promote greater openness and transparency in research and innovation processes. The policy is based on the overarching principle that research and research processes should be «as open as possible, as closed as necessary». This means that research and research processes shall be made openly available unless this is precluded by legitimate considerations such as security issues, protection of privacy, legal circumstances or competition considerations. Many institutions have their own internal strategies or plans in this area. The University of Bergen's policy on open science⁴³ applies to all research, teaching and dissemination that takes place at the university. The strategy also includes the sharing of open, high-quality learning resources. Open learning resources are part of the university's academic production and are important for dissemination of knowledge.

The government's goal is that by 2024 all Norwegian academic articles that have been funded by public funds will be openly available. Norway shall be a leader in the drive to ensure that all publicly funded scholarly articles are made openly available from the date of publication.⁴⁴

⁴² The Research Council of Norway (NFR): Åpen forskning [Open research] 2020 <https://www.forskningsradet.no/siteassets/forskningspolitisk-radgivning/apen-forskning/nfr-policy-apen-forskning-norsk-ny.pdf>

⁴³ University of Bergen: Politikk for åpen vitenskap ved Universitetet i Bergen [Policy for Open Science at the University of Bergen] (2020) <https://www.uib.no/foransatte/139288/politikk-%C3%A5pen-vitenskap-ved-universitetet-i-bergen>

⁴⁴ Ministry of Education and Research: Nasjonale mål og retningslinjer for åpen tilgang til vitenskapelige artikler [National goals and guidelines for open access to academic articles] (2017) <https://www.regjeringen.no/no/dokumenter/nasjonale-mal-og-retningslinjer-for-apen-tilgang-til-vitenskapelige-artikler/id2567591/>

The Universities and University Colleges Act Commission (the Aune Commission)⁴⁵ concluded that the requirements laid down in Plan S⁴⁶ for open access publication are fully compatible with academic freedom and the individual researcher's right to choose their channel of publication. They pointed out that making research available is an important research ethical norm. Universities and university colleges will be better able to fulfil their purpose, which is to be sources of research-based knowledge that is used in society, if this knowledge is openly available. Open access publication will increase the significance of research in society.

Against this backdrop, the Commission finds it important that the ongoing work on open research, and open access to research in particular, is continued.

7.6.2 Internationally

Academics all over the world face challenges similar to those here in Norway, despite variations in framework conditions and the regulation of institutional and individual rights. High quality in research, education and dissemination that can influence public debate is in the best interests of society. In authoritarian countries, the situation of students and academics is not always so very different from that of others who organise themselves into groups or speak in public. It is generally a human rights problem that leads to them being subjected to threats, persecution or imprisonment. The acceleration of knowledge exchange that social media enables, aided by artificial intelligence and algorithms, combined with the need for science-based policy development and public debate, suggests that the initiatives of European countries and authorities to protect and promote academic freedom and freedom of expression are on the right track.

However, the necessary international collaboration and openness in academia also present some challenges for researchers and institutions in Norway. There is a growing need to raise awareness relating to security and export control issues, as well as academic freedom. The export control rules are critically important for Norwegian society, as are academic freedom and free-

dom of expression. The Ministry of Foreign Affairs possesses knowledge about the former, but not the latter. This means that the application of the export control rules in the knowledge sector should include special consultation and decision-making processes in which the knowledge sector is actively involved. Decisions should be made by the government, not at the ministry level.

The Commission has concluded that the following recommendations will contribute to strengthening the international efforts to improve the conditions for employees' academic freedom of expression for knowledge exchange and debate both within research and educational institutions and externally with society at large.

The Commission has the following advice for the authorities:

- a. The government should continuously assess the status of the cooperation with the partner countries in the Panorama strategy. Norway's cooperation with challenging countries should have a separate midway evaluation with a focus on developments in academic freedom and freedom of expression and the risk of Norwegian institutions contributing to legitimising restrictions thereof.
- b. The Ministry of Foreign Affairs' enforcement of the export control regulations in connection with knowledge partnerships should include special consultation and decision-making processes in which the knowledge sector is actively involved and where decisions are made by the government and not at the ministry level.
- c. When developing policy for academic freedom of expression in educational, research and innovation partnerships with challenging countries, Norway should coordinate with the EU and the OECD to ensure that these policies are practised as uniformly as possible.
- d. The Commission asks the government to support the ongoing work in the EU to strengthen academic freedom in general and academic freedom of expression in particular. This applies, among other things, to work on indicators related to academic freedom of expression in the European Research Area (ERA) and the European Higher Education Area (EHEA), i.e. the Bologna Process, and initiatives to appropriately evaluate academic freedom in the midway evaluation of Horizon Europe.
- e. The Commission asks the government to introduce a stronger expectation that project

⁴⁵ Official Norwegian Report (NOU) 2020: 3, chapter 15

⁴⁶ The Research Council of Norway (NFR): Plan S – åpen tilgang til publikasjoner [Plan S – open access to publications] <https://www.forskningsradet.no/forskningspolitisk-radgivning/apen-forskning/apen-tilgang-til-publikasjoner/>

funding distributed through the agreements with the EU and the beneficiary countries under the EEA and Norway Grants schemes will contribute to improving the conditions for employees' academic freedom of expression for exchange of knowledge and debate, both within research and educational institutions and externally in society at large, and to consider research priorities and measures that can support this. The Commission finds that the Ministry of Foreign Affairs should consider how the profile of the guidelines and measures in the education and research section can help improve the framework conditions for academics to share their knowledge in society and be supported in this at their institutions. This will be in line with the Ministry of Foreign Affairs' strategy for freedom of expression.⁴⁷

- f. The Commission finds that academic freedom of expression and academic freedom have not been priorities in the Nordic co-operation through the NordPlus education programme or the Nordforsk research programme. Norway has the presidency of the Nordic Council of Ministers in 2022, which may be a good opportunity to initiate cooperation on this issue among the Nordic countries. The Commission asks the Norwegian authorities to raise the issue of academic freedom, including understanding of democracy, active citizenship, freedom of expression and confidence in knowledge, as an important topic in the Nordic Council of Ministers' work on education and research.
- g. The Commission asks the Norwegian authorities to support the UN's efforts to establish a global code of conduct to combat misinformation online and promote integrity in public information.
- h. The Commission asks the government to establish Students at Risk as a permanent scheme and to support the Scholars at Risk scheme, and asks the universities and university colleges to be active in these networks.

7.7 Summary

In sections 7.2–7.6, the Commission has proposed a number of measures and recommendations.

However, we would once again emphasise our concluding point from chapter 1. Although legislation, political measures, institutional strategies and astute leadership are all very important, they will be ineffectual unless academics themselves address the challenges facing academic freedom of expression. The climate of free speech can never be better than each individual strives to make it.

Like knowledge, a good culture of free speech must be built from the bottom up, every single day.

The Commission's proposals can be summarised as follows:

1. In section 7.2.2, the Commission proposes amending section 1-5 of the Universities and University Colleges Act with the following objectives
 - a. to clarify the institutional responsibility for the staff and students' academic freedom
 - b. to specify that the institutional responsibility entails ensuring training in and the prerequisites for staff and students to be able to exercise academic freedom, including academic freedom of expression
 - c. to clarify that the academic freedom from external instructions and control also applies to the dissemination part of the academic tasks
 - d. to promote the individual right, and responsibility, to conduct academic dissemination
2. The Commission does not propose amendments to the Norwegian Constitution or other regulations. The reasons for this are given in section 7.2.3.
3. The Commission proposes that the development agreements for the public universities and university colleges should contain objectives and goals related to dissemination. These kinds of goals could be qualitative or quantitative and may vary among the institutions. See section 7.3.1.
4. The Commission proposes the introduction of a dissemination indicator in the funding system for universities and university colleges. If changes are made to the general funding system, such as the removal of research indicators, the question of an indicator for dissemination must be considered in light of this. See section 7.3.2.
5. The Commission proposes that the reporting system for dissemination activities be greatly simplified. See section 7.3.3.
6. The Commission presents a draft *declaration on academic freedom of expression*. It is

⁴⁷ The Norwegian government's international strategy for promoting freedom of expression in foreign and development policy (2021)

intended to function as a springboard for discussion and raising awareness about academic freedom of expression at the institutions. The text is offered as a proposal; it is not intended to be regarded as a requirement or order. It can – and should be – criticised, modified and adapted locally. See section 7.4.1.

7. The Commission proposes ten *ground rules for free speech*. They are intended to serve as a checklist for the individual academic who wants to promote a good culture of free speech. See section 7.5.
8. The institutions should clearly emphasise in their strategies that academic freedom of expression, academic dissemination aimed at the general public, and active participation in public discourse are natural elements of the mission of universities. See section 7.4.2. Elements of the institutions' dissemination strategies may include:
 - a. establishing leadership forums where the relationship between academic freedom, freedom of expression and academic freedom of expression is discussed and where associated issues and situations can be discussed
 - b. expressing expectations for individuals with regard to dissemination activities (for example, in the appointment process)
 - c. establishing scheme(s) to support personnel who are «in the line of fire» due to their dissemination activities
 - d. weighing up the institution's reputation building against academic freedom of expression
 - e. discussing academic freedom of expression in international partnerships, especially in order to strengthen the institutions' ability to handle collaboration and situations with demanding countries
 - f. discussing academic freedom of expression when collaborating with businesses and other stakeholders in society
 - g. considering the work on protection of privacy and research ethics in the light of academic freedom of expression
 - h. discussing how to ensure diversity and prevent conformity
9. The Commission emphasises that astute leadership is essential to ensure a good culture of academic freedom of expression (cf. section 7.4.2).

Astute leadership includes:

 - a. having a good understanding of the relationship between academic freedom, fre-

edom of expression and academic freedom of expression

- b. highlighting and stimulating dissemination activities by creating arenas for dissemination and contributing to the development of a good culture of free speech
 - c. being supportive of colleagues who are experiencing difficult situations as a result of having exercised their freedom of expression
 - d. creating predictable framework conditions for freedom of expression, including when a manager can intervene
- participating in discussions about academic freedom of expression with other managers
10. With the Commission's proposal for a new third paragraph of section 1-5 of the Universities and University Colleges Act, the universities and university colleges will also be explicitly responsible for having systems and routines for training in academic freedom and academic freedom of expression. See section 7.4.3.

The training activities will also be an element in the building of an organisational culture to improve academic freedom of expression. The Commission holds that everyone who exerts an influence on the exercise of academic freedom of expression by the academic staff and students must have fundamental knowledge of the grounds for academic freedom of expression. Furthermore, the Commission finds that universities and university colleges must do more to ensure that employees who want or need it media training are offered this. The proposal that a requirement regarding training in academic freedom of expression be added in section 1-5, new third paragraph, of the Universities and University Colleges Act also encompasses students.
11. Since good management and leadership are essential for creating a good academic culture of free speech, managers and other leaders must also receive training. Universities and university colleges have a responsibility to ensure systematic management development, which must also include academic freedom of expression.
12. The Commission finds that greater weight can be attached to dissemination activities in connection with appointment and promotion. Expectations concerning dissemination can also be worded more clearly in employment contracts. The Commission's proposal to introduce a dissemination indicator in the funding

system for universities and university colleges should be followed up at the institutional level by establishing transparent reward and/or incentive systems for dissemination. This should be done regardless of whether or not a national dissemination indicator is introduced. See section 7.4.4.

13. Doctoral programmes are central to the advancement of academia and providing society with new knowledge. The Commission therefore recommends that universities and university colleges introduce a requirement that all doctoral theses must include some form of dissemination aimed at the general public. This kind of requirement can be implemented through inclusion in the contract that the individual institution enters into with the PhD candidates. See section 7.4.5.
14. The Commission proposes that the Ministry of Education and Research establish a regulatory requirement that all doctoral theses must include an abstract in Norwegian, to ensure that the requirement also applies to private universities and university colleges.
15. The Commission expects the institutions to take their statutory responsibilities for the maintenance and development of Norwegian academic and technical language seriously. The institutions must contribute to the development of terminology in the various fields. Employees must be given time to work on contributions to encyclopaedias and textbooks, etc. Training in Norwegian language and society for non-Norwegian-speaking employees must be strengthened. The government's support scheme for textbooks to ensure there is syllabus literature available in Norwegian and Sami must be continued at an adequate level. See section 7.4.6.
16. Recommendations to the authorities – national measures (see section 7.6.1):
 - a. When acting as a contracting client, the state and public authorities must ensure openness and transparency regarding research findings and must allow dissemination of results.
 - b. The Commission asks the Ministry of Education and Research to instruct the Research Council of Norway (NFR) to ensure that abstracts in Norwegian are also published for all the projects in the Research Council of Norway's Project Bank.
 - d. In their communication, including both political statements and in connection with administrative follow-up, the authorities should stress the importance of academic freedom of expression and that this is a crucial part of the mission of academia. The authorities must not impose restrictions on expressions or unnecessarily undermine confidence in research-based knowledge.
 - e. The Commission finds it important that the ongoing work on open research, and open access to research in particular, is continued.
17. Recommendations to the authorities – international measures (see section 7.6.2):
 - a. The government should continuously assess the status of the cooperation with the partner countries in the Panorama strategy.
 - b. The Ministry of Foreign Affairs' enforcement of the export control regulations in connection with knowledge partnerships should include special consultation and decision-making processes in which the knowledge sector is actively involved and where decisions are made by the government. See section 7.4.2.
 - c. When developing policy for academic freedom of expression in educational, research and innovation partnerships with challenging countries, Norway should coordinate with the EU and the OECD to ensure that these policies are practised as uniformly as possible.
 - d. The Commission asks the government to support the ongoing work in the EU to strengthen academic freedom in general and academic freedom of expression in particular.
 - e. The Commission finds that project funding through the agreements with the EU and the beneficiary countries that regulate the EEA and Norway Grants schemes ought to make a greater contribution towards improving the conditions for employees' academic freedom of expression.
 - f. The Commission asks the Norwegian authorities to raise the issue of academic freedom, including understanding of democracy, active citizenship, freedom of expression and trust in knowledge, as an important topic in the Nordic Council of Ministers' work on education and research.
 - g. The Commission asks the Norwegian authorities to support the UN's efforts to establish a global code of conduct to combat misinformation online and promote integrity in public information.

- h. The Commission asks the government to establish Students at Risk as a permanent scheme and to support the Scholars at Risk scheme, and asks the universities and university colleges to be active in these networks.

Chapter 8

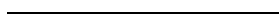
Economic and administrative consequences

The proposed amendments to section 1-5 of the Universities and University Colleges Act are essentially a clarification of the current regulations and will not have significant economic or administrative consequences.

The proposal to include a dissemination indicator in the funding system entails a redistribution of the funding within the closed framework of the

performance-based part of the allocation. This proposal will therefore not have any economic consequences. The administrative consequences will be minor relative to the total administration of the current system.

The other proposals are not expected to have significant economic or administrative consequences.



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