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Academic Freedom in Hungary





Academic Freedom in Hungary

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Executive Summary

Based on the analyses of legal regulations, interviews of higher education experts and academics, and cases published in the media, this paper aims to analyze how academic freedom has evolved in the Hungarian public higher education and research sector following the regime change (1989) and especially between 2010 and 2021.

Regarding the legal protection of academic freedom, we concluded that the current Fundamental Law and Act of 2011 on National Higher Education provides some protection to the freedom of teaching and research, but higher education institutions can limit individuals' freedom of teaching and research in some cases by law. Other elements of academic freedom, such as the right to disseminate knowledge and shape the academic community, are not mentioned at all. The partial erosion of legislative guarantees means that the respect or violation of academic freedom depends on the whim of decision-makers at policy and institutional levels.

Self-governance of the academic community was analyzed on two levels. On the sectoral level, we focused on two buffer organizations, the Hungarian Accreditation Committee and the Hungarian Rectors' Conference. We concluded that their role and importance has gradually weakened since the 2000s, while the state has increased its control powers. From the 2010s onwards, the role of sectoral consultation declined significantly, and buffer organizations have either been marginalized or reduced to a consultative role where their position can be overruled if necessary.

At the institutional level we analyzed the autonomy and self-governance of public higher education institutions and the Eotvos Lorand network of public research institutes. We concluded that the role of academic communities in decision making has been reduced. The financial and strategic decisions have been taken over by new bodies (boards of trustees, governing boards) or agents (e.g. chancellors); and the government has a decisive influence on their composition or selection. The accountability of and control over the new, government-mandated governing bodies are weak – in particular, to and by the academic community they are mandated to govern. This is not necessarily a violation of academic freedom per se, but the procedural and organizational guarantees that hitherto had ensured it are no longer in place. Therefore, the problem at the systemic level is not the systematic restriction of academic freedom but the inability of the current legal environment and governance model to prevent its infringement.

At the individual level, a majority of the interviewees felt that there is no systematic or institutionalized effort at the sectoral or institutional level to openly restrict academic freedom in Hungary. However, in the social sciences and humanities, especially in the case of high-intensity public discourses (gender, migration, LGBTQ, etc.), the phenomenon of self-censorship, conformity and adjusting is already present, and is amplified by systemic factors. These factors include, for example, increased insecurity, dependency and vulnerability of academics (e.g. losing of public servant status); difficulties in accessing the research data; the discouragement to discuss controversial topics; the discouragement to express expert opinion in the public arena in some topics (such as migration, gender etc.).

There is no organized protest against restrictions on academic freedom, institutional autonomy and self-governance. Leaders of institutions are less willing to defend academic freedom, as the dependence of institutions on external actors (such as the government) has increased and leadership positions are increasingly held by leaders appointed by external actors (rather than by the academic community). In addition, institutions tend to be internally divided, making it difficult for institutional leadership to develop and advocate a common position.

1.

Introduction

This paper aims to analyze how academic freedom has evolved in the Hungarian public higher education and research sector in the decades following the regime change (in 1989), especially the years between 2010 and 2021.

The examination of academic freedom is a particularly interesting issue in Hungary because of the country's in-between' position. Academic freedom has become a sensitive issue worldwide in the last two decades: East and West, North and South, in advanced democracies and dictatorships alike. Hungary is geographically and geopolitically on the border between East and West, economically between developed and developing countries. Politically, due to the illiberal policies pursued by the Hungarian government in the last decade, Hungary has been often seen as a hybrid system between liberal democracies and dictatorial regimes (Bozoki – Hegedus 2017; Csaky 2020), as an authoritarian state (Kornai 2016) or as a plebiscitary leader democracy (Korosenyi et al. 2020).

How does academic freedom evolve in such an in-between' situation? What kind of higher education and science policy characterizes a country whose leadership is building an illiberal state? While in liberal democracies academic freedom is constrained by academic capitalism (Hao 2020) and different forms of political correctness (e.g. see the abundance of discussions about free speech, trigger warnings, safe spaces, no platforming and microaggressions; Lackey 2018), in authoritarian states, the primary constraint is political repression (Hao 2020). We believe that by demonstrating the development of academic freedom, we can also provide an insight into the priorities and strategies of a government that calls itself illiberal.¹

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To describe the evolution and current status of academic freedom, it is worth setting out what we consider to be academic freedom. The UNESCO (1997) Recommendation concerning the Status of Higher-Education Teaching Personnel provides one of the most well-known definitions. It describes academic freedom as "the right, without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies." Another well-known definition, by the American Association of

¹ It was the Hungarian Prime Minister, Viktor Orban, who characterized Hungary as an illiberal democracy <https://2015-2019.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/prime-minister-viktor-orban-s-speech-at-the-25th-balanyos-summer-free-university-and-student-camp>

University Professors (AAUP 1940) also mentions the right to teach and the right to research, but it also adds the freedom “from institutional censorship or discipline” when academics “speak or write as citizens” (AAUP 1940: 14).

For better analytical purposes, we combined the descriptions by UNESCO (1997) and the AAUP (1940) into four separate rights:

1. **the right to teach**, that is, to express scientifically sound and validated truth without any interference, which includes “a significant role in determining the curriculum” (UNESCO 1997),
2. **the right to research**, that is, to conduct research based on one’s own research interests without any interference from or any suppression by political and commercial actors,
3. **the right to disseminate knowledge**, share research findings and ideas within chosen professional and public platforms,
4. **the right to participate in shaping the academic community**, that is, to share an opinion about those conditions which influence the freedom to teach, research and disseminate expert knowledge, and to participate in governing bodies of the academic community.

Academic freedom comes not only with rights but also with responsibilities. Members of the academic profession should use these rights according to the accepted professional principles, including intellectual rigor, professional responsibility, integrity, and ethics. It is the academic community that judges whether an individual’s teaching or research is in line with professional standards, so academic freedom depends on the academic community. Therefore, the academic community may legitimately restrict an individual’s academic freedom, provided the academic community has the power to develop and enforce its standards. As higher education institutions and research institutes are among the most important entities that organize academic communities, examining their decision-making powers and processes is essential for assessing academic freedom.

In order to understand how academic freedom changes over time, we consider the concept of academic freedom and its limits as socially constructed. The activities and behaviors that are considered to be within

and without the limits of academic freedom may vary from community to community and from time to time. As new interpretations appear, as can be seen, for example, in new practices and regulations, they challenge the dominant narratives, and in turn create tensions. Studying these tensions can help us understand the direction and content of the change in academic freedom. It is therefore worth examining the nature of the tensions that arise and who or what causes them.

Tensions over academic freedom can come from many directions. They can come from within the academic community, for example, when academics are forced to conform to the mainstream research topics, methods, and publishing requirements if they want to succeed (Frey 2003; Delborne 2016; Butler – Spoelstra 2017). They can also come from within the organization, for example, when tensions arise from administrative constraints created by management. And they can also arise from outside when public opinion, politics, religion or businesses exert pressure to limit academic freedom.

Tensions naturally appear in higher education that is undergoing radical renewal and permanent reform after a regime change. In this study, we show that the latest reforms in Hungary, which emphasized efficiency and effectiveness, undermined academic freedom. Although such reforms have been ongoing since the 2000s, there is no doubt that since 2011 changes have become more frequent and radical. It is important to underline that the reforms have not specifically targeted academic freedom, but they have affected it directly or indirectly. One example is the transformation of public higher education institutions into private institutions (the so-called “model change”), that has been taking place since 2019. In themselves, changes in the decision-making powers of the institution or in the employment status of academics may not necessarily hurt academic freedom. However, in this particular context they may increase the vulnerability of academic communities and individual academics to external interference, leading to a decreasing level of academic freedom.

The structure of the study is as follows. First we review the research questions and methods. We then briefly describe the development of Hungarian higher education after the regime change. The conditions for academic freedom are examined in three parts: first, we review

the legal framework, then the possibilities for institutional autonomy and self-governance are examined, and finally, cases of violations of academic freedom are presented on the basis of interviews and other case studies. The paper concludes by examining the obstacles to and opportunities for academic freedom.

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2.

Methods, Sources, and Scope of the Study

We present the circumstances and evolution of academic freedom in Hungary by exploring the following three research questions:

1. How does the regulatory framework conceptualize academic freedom, and what guarantees does it provide to protect academic freedom in Hungary? How has this changed over time?
2. To what extent do public higher education and research institutions' governance and decision-making model help or hinder academic freedom? How has this changed over time?
3. What typically limits or supports academic freedom in Hungary? Where do tensions arise in the context of academic freedom? What are the weaknesses and risk elements of the current regulatory framework and institutional environment?

Our study focuses on public higher education and public research institutes for a number of reasons. First, the public higher education and research sector has a dominant role in academic communities in Hungary. Some 89% of researchers with PhD qualifications work in higher education or public research institutes (KSH 2021a), and in 2019 more than 80% of students were studying in public institutions (Educational Authority 2021). For this reason, the church and private higher education sectors are not included in the scope of this analysis. Thus, the forcing of the Central European University to relocate to Vienna, which attracted considerable international attention (see, for example, EUA 2018a; EUA 2020), will not be analyzed, even though it is an important milestone in the institutional autonomy of Hungarian private institutions, especially after the judgement by the Court of Justice of the European Union (Court of Justice 2020). Beyond the focus on the public higher education sector, this study primarily researches how the state affects academic freedom, without further looking into the influence on academic freedom of other external factors, such as corporations, or academics themselves.

Our primary area of attention is the period after 2011. Although higher education has been in a state of permanent reform since the early 1990s, and we admit that the inheritance of the past significantly shapes current behaviors because of path-dependency, in 2011, a new constitution (called Fundamental Law) and a new higher education

act² were adopted in Hungary, both of which redefined the context of academic freedom.

Data collection was undertaken in the following manner: first we analyzed legal regulations describing and affecting academic freedom, and second we conducted interviews among higher education experts who have an overview of the higher education system and the institutional environment. Later, we collected cases of infringements of academic freedom to look for patterns. Some cases stem from the media, where they gained significant publicity. Other cases came from interviews conducted among experts, higher education leaders and rank-and-file academics. The interviews did not aim for a representative sample but to assess recurring patterns of infringements (if any) and to understand the individual, organizational and system-level mechanisms behind such patterns.

Interview respondents were identified through snowball sampling, a suitable sampling method when the research question is sensitive and interviewees are hard to find. The drawback of this sampling method is the oversampling of a particular network of peers, leading to selection bias. To avoid this bias, we looked for interviewees from several institutions and different disciplines. We also offered the possibility to survey respondents to be interviewed if they thought they had an account worth discussing, and we managed to do three interviews in this way.

We conducted 31 interviews: 20 interviewees were male and 11 were female. Of them 22 work/worked in a Budapest-located institution, 9 in institutions operating outside Budapest. All interviewees, except two, held positions of associate professor or above. Half of them serve or served in leadership positions. Interviewees came from 9 different institutions covering the Eotvos Lorand Research Network³ and 6 of the top 8 largest Hungarian universities (in terms of student numbers).⁴

Since social sciences or humanities are more exposed to academic freedom infringements because they “often address issues that are ideologically and politically controversial and more open to interpretations” (Aktas et al. 2019: 172; see also Clark 1987), 26 interviewees come from these disciplines. We also conducted five interviews with respondents from the natural sciences, engineering and medical sciences to complement the patterns and responses coming from social sciences and humanities.

The interviews lasted on average about one hour and were conducted in Hungarian. They were mostly conducted online, after which they were transcribed verbatim. All respondents received information about the aims of the study, were informed that participation was voluntary, and that interviews were confidential because of the sensitive nature of the study. Therefore, we have kept all our interviewees anonymous in this study. Hereafter, each interview will be referred to by a code number (I1, I2 etc.).

² Act CCIV/2011 on National Higher Education, HUN-2011-L-100094.

³ The Eotvos Lorand Research Network is a group of the most important public research institutions in Hungary. Its development will be discussed later. See <https://elkh.org/en/about/>.

⁴ Interviewees work at Eotvos Lorand University, University of Szeged, University of Debrecen, University of Pecs, Budapest Business School, Corvinus University of Budapest, University of Pannonia, University of Public Services.

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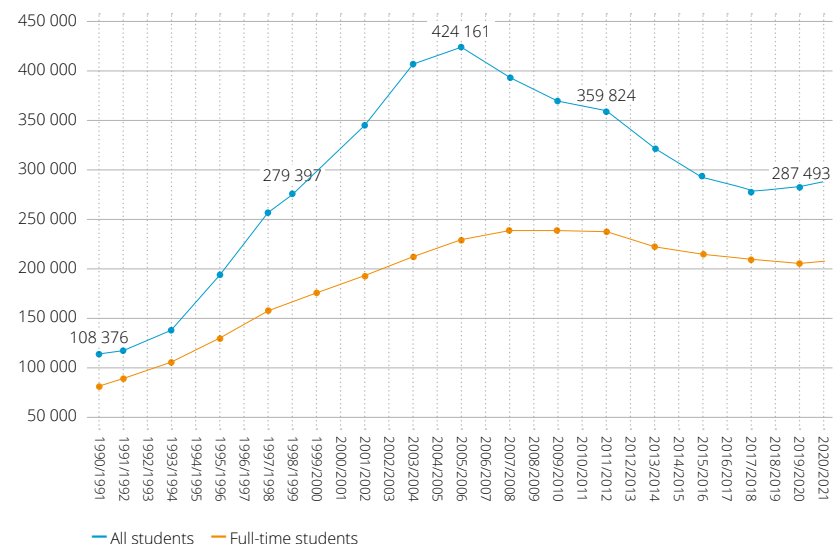
The Characteristics of the Higher Education Sector in Hungary

The period after the regime change of 1989 was a time of permanent reforms in the Hungarian higher education (HE) sector. Initially, these reforms aimed to catch up with Western universities, and to democratize access to HE, resulting in reforms in institutional management and funding, and the reorganization of study program structures. Later, the Bologna Process served as a reform model. An important consequence of these reforms was the expansion of higher education in three areas: a significant increase in the number of students, an increase in the number of study programs and an increase in the number of private and church institutions.

Guarantees for the freedom of teaching and research appear at two levels: on the constitutional level and in the statutory provisions regulating higher education. However, the level of elaboration, detail, and depth has varied between 1990 and 2019, and we can clearly discern a deterioration in the legal protection of academic freedom.

The number of students increased at first; it almost quadrupled from 108 000 in 1990 to 424 000 in 2005. This increase was followed by a steady decline due to demographic reasons and, after 2010, government intervention. In 2020, 287 000 students studied in Hungarian higher education. Meanwhile, the number of academics remained stable.

FIGURE 1: NUMBER OF STUDENTS IN HUNGARIAN HIGHER EDUCATION / SOURCE: KSH (2021b)



Increasing student demand has led to an increase in the number of study programs. Successive governments have had the power to control the establishment of such programs. On several occasions they have tried to resist the pressure stemming from higher education institutions, limiting the increasing number and complexity of study programs: during the introduction of the multi-cycle education system following the Bologna Process model (2005–2009) and during the revision of this system (2015–2016).

After the regime change, the church and other private actors were free to establish higher education institutions, leading to a proliferation of non-public institutions. Up until 2019, however, the share of students in these sectors barely reached 10% of total student enrolment (Educational Authority 2021). In 2020 and 2021, the so-called model change resulted in an increase of student numbers in private institutions. The fragmented public higher education sector underwent a top-down institutional rationalization at the turn of the millennium: of the more than 50 over-specialized public higher education institutions, 25 larger urban and regional universities were established thorough forced mergers.

The result of a “permanent reform” process was a constantly changing, unstable legal environment. Three higher education acts have been passed in the last 30 years (in 1993, 2005 and 2011), radically changing the regulatory framework, often in its most fundamental elements. For example, according to a 2017 survey (Ronay 2018), the current Act on National Higher Education, which had been in force for only five years, has been amended nearly 15 times with around 650 amendments. As a result, the legislative environment can be considered unpredictable and lacking in transparency.

TABLE 1: MILESTONES IN THE REFORM OF HUNGARIAN HIGHER EDUCATION AFTER THE REGIME CHANGE

1993	Adoption of Act LXXX of 1993 on Higher Education
1995	Introduction of tuition fees
2000	Forced mergers of public institutions/introduction of the student loan system
2005	Adoption of Act CXXXIX of 2005 on Higher Education
2005	Introduction of the two-cycle (bachelor–master) program system
2011	Adoption of Act CCIV of 2011 on National Higher Education; Adoption of a new Fundamental Law
2013	An amendment of the Fundamental Law restricts institutional autonomy of public institutions
2014	Introduction of the chancellor system
2015	Introduction of consistories (supervisory boards)
2016	Forced mergers of public institutions
2019	The first public institution is transformed into a private one maintained by a public interest trust (“model change” process)

Despite constant reforms and unpredictable changes, the reputation of universities and the Hungarian Academy of Sciences (which maintained a large network of research institutes that now belong to the Eotvos Lorand Research Network) has remained very positive among the Hungarian public. As Fabri (2015) summarizes, based on an extensive survey of the major public institutions “only the Academy and the universities were in the top quadrant of the trust index” (Fabri 2015: 48).⁵ This survey also showed that although the social esteem for researchers is high, a significant majority of respondents (67%) believe that they are not able to assert themselves in Hungary.

⁵ The survey examined the level of trust in the following public institutions: universities, the Hungarian Academy of Sciences, Constitutional Court, President of the Republic, local government, courts, police, army, commercial banks, newspapers, churches, Parliament, insurance companies, trade unions, Government and political parties.

4.

The Legal Protection of Academic Freedom

The term “academic freedom” is not currently used in Hungarian legal regulations. Instead, terms such as “freedom of teaching”, “freedom of learning”, and “freedom of research” are used, which leads to some uncertainty as to what extent they are the same as “academic freedom”. For example, while academic freedom includes the right to speak freely within the institution and in public, this is not covered as part of freedom of research or teaching.

Hungarian laws have generally protected the freedom of teaching and research since the change of regime when the rule of law principle was adopted and became fundamental in the Hungarian legal system. Guarantees for the freedom of teaching and research appear at two levels: on the constitutional level and in the statutory provisions regulating higher education. However, the level of elaboration, detail, and depth has varied between 1990 and 2019, and we can clearly discern a deterioration in the legal protection of academic freedom.

4.1. Academic freedom at the constitutional level

The Communist-Socialist People’s Republic Constitution did not contain any substantive provisions about academic freedom. With the regime change in 1989, the constitution was radically revised and included a concise declaration of some elements of academic freedom: “The Republic of Hungary shall respect and support the freedom of scientific and artistic expression, the freedom to learn and to teach”. In 2011 a new constitution, called “Fundamental Law”, and a new Higher Education Act were adopted.

TABLE 2: THE APPEARANCE OF ACADEMIC FREEDOM IN THE CONSTITUTION/FUNDAMENTAL LAW

CONSTITUTION (1989–2011)	FUNDAMENTAL LAW (2012–) ⁶
70/G. § (1) The Republic of Hungary shall respect and support the freedom of scientific and artistic expression, the freedom to learn and to teach.	Article X (1) Hungary shall ensure the freedom of scientific research and artistic creation, the freedom of learning for the acquisition of the highest possible level of knowledge and, within the framework laid down in an Act, the freedom of teaching.
(2) Only scientists are entitled to decide in questions of scientific truth and to determine the scientific value of research.	(2) The State shall have no right to decide on questions of scientific truth; only scientists shall have the right to evaluate scientific research.
–	(3) Hungary shall protect the scientific and artistic freedom of the Hungarian Academy of Sciences and the Hungarian Academy of Arts. Higher education institutions shall be autonomous in terms of the content and the methods of research and teaching; their organization shall be regulated by an Act. The Government shall, within the framework of the Acts, lay down the rules governing the management of public institutes of higher education and shall supervise their management.

The Fundamental Law provides stronger guarantees in some respects and weaker ones in others.

Regarding the **freedom of teaching**, while the former Constitution stated that Hungary *respected and supported* freedom of research and teaching, the Fundamental Law *ensures* these freedoms, that is, it requires the state to actively protect them. However, it also emphasizes that the freedom to teach can be realized only within the frameworks laid down in an Act. Unlike in the previous Constitution, the freedom to teach can now be restricted or even abolished by law without violating the Fundamental Law. This is a significant weakening of constitutional guarantees for academic freedom.

There are also stronger guarantees regarding the **freedom of research** in the Fundamental Law than in the Constitution. The Fundamental Law declares that Hungary *ensures* the freedom of scientific research, while

the former Constitution only *respected and supported* it. Both regulations state that only those who practice science are entitled to evaluate scientific research, but the Fundamental Law also declares that the state has *no right* to make decisions. That is a stronger guarantee.

Neither the Fundamental Law nor the Constitution mention explicitly **the right to disseminate knowledge** or **the right to participate in shaping the academic community**. This leads to questions of institutional autonomy and self-governance. Although the autonomy of higher education institutions was not declared in the Constitution, the Constitutional Court derived it from the freedom of teaching and research in several of its judgments. The Court argued that if external actors, who are not members of the university's academic community, decide on university matters, the freedom of teaching and research cannot be guaranteed (Constitutional Court 2006).

⁶ We use the official translation of the Fundamental Law which can be found at <https://www.njt.hu/translations/-:0002-:-/1/10> (Accessed on 21 Dec. 2021). A translation of the former Constitution can be found at the site of the Office of the High Commissioner for Human Rights at the United Nations here: <https://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.HUN.3-Annex2.pdf> (Accessed on 21 Dec. 2021).

Therefore, the new Fundamental Law purposefully restricts institutional autonomy to decisions on the “content and the methods of research and teaching”. This phrasing also confuses the concept of institutional autonomy and academic freedom. The text states that the holder of the freedom to teach and research is not the academic but the higher education institution, so institutions can legitimately limit the freedom of individual academics ever further. Therefore, the question arises that if an institution restricts the right of an academic to teach and research, how can the state *ensure* the freedom of research and teaching? That makes the question of how institutions make decisions and internal regulations especially important.

In the case of research, the situation is even more confusing, as the Fundamental Law declares the inviolable right to carry out scientific research, but this is restricted only to evaluating the results of scientific research. At the same time, the Fundamental Law designates the institution as the holder of this freedom in terms of decisions on the methods and content of research. The regulation leaves unclear what rights individual researchers really have and how institutions can restrict their freedom?

Overall, we can draw two conclusions. First, some elements of academic freedom are present in the Fundamental Law; others are absent. The elements that are present appear to be protected, at first glance. However, if we delve into the details, major uncertainties become apparent. This is mainly because the addressee of the freedom is undefined, leading to contradictions that leave room for multiple interpretations in applying the law.

Second, some of the rights mentioned by the Fundamental Law may be limited by lower-level regulations (such as the Act on National Higher Education) by state authorities or by the higher education institutions, which weakens the constitutional protection of academic freedom. Therefore, it is necessary to examine how the Higher Education Act regulates issues of academic freedom on one hand and what the autonomy and self-governance of higher education institutions means in practice on the other hand.

4.2. Academic freedom in the Higher Education Acts

Since the change of regime in 1989, three separate higher education acts have been passed in 1993, 2005 and 2011. They regulate elements of academic freedom in different ways.

The Preamble of the Act of 1993 declared that the act’s goal is to regulate the autonomy of higher education institutions and the role of the state in providing the freedom of teaching, scientific research, artistic creation, and learning. The act elaborated in several sections all four elements of academic freedom.

The Act of 2005 confirmed the importance of academic freedom in the preamble, stating that “freedom of teaching, research and artistic life in higher education is achieved through the autonomy of higher education institutions”. The Act defined educational, research, and the organizational and financial autonomy of institutions. It required that a higher education institution “ensure, in the exercise of its autonomy, the consistency of the exercise of the freedom of teaching, scientific and artistic life and the right of students to learn” (§1). The Act also detailed at length all elements of academic freedom. However, regarding the freedom of teaching, the act also laid down obligations. Both the 1993 and 2005 Acts devoted several paragraphs to describing all four rights attached to academic freedom symbolically and practically reflecting their importance (the exact wording of each higher education act can be found in Annex 1.)

The Act of 2011 on National Higher Education, currently in force, does not use the words “autonomy” and “freedom” at all. The act no longer contains any reference to freedom of teaching, research or learning, or their constitutionality. Instead, the current act emphasizes the necessity of “the spiritual and intellectual renewal of the nation” (Bazsa 2014a).

Nevertheless, the Act of 2011 does include some elements on academic freedom. The Act confirms the right of academics to carry out teaching following their convictions and values, without forcing or encouraging students to accept them, to determine the content of the course within the framework of the study program,

and to choose the teaching methods they find appropriate. This section can be considered to be about the freedom to teach, even if it is somewhat more limited than in the previous acts. For example, both the previous acts explicitly declared that academics have the right to evaluate students, while the act of 2011 requires academics “to teach and evaluate according to the accepted study program”.

The current act is missing any confirmation of the right to conduct and disseminate research. While both previous acts emphasized at length the right of academics to research a chosen scientific topic, to submit grant applications, and to publish research results, the new act contains no such statements. Both previous acts

declared the right of academics to shape the academic community by making proposals on any matter relating to the life of the institution, and that they should receive a substantive response to them. Such provisions have disappeared from the currently valid act.

Overall, many of the statutory guarantees of academic freedom have disappeared since the 2011 Act, resulting in a significant deterioration of the regulatory framework. Outside of the higher education legislation, there are even fewer guarantees. The Act of 2014 on scientific research, development and innovation, which applies to public research institutes of the Eotvos Lorand Research Network (see later), does not even mention freedom of research.

TABLE 3: ELEMENTS OF ACADEMIC FREEDOM IN THE MOST IMPORTANT LEGAL REGULATIONS

	Freedom to teach	Freedom to research	Freedom to disseminate knowledge	Freedom to shape academic community
Constitution (1989-2011)	X	X		
Act on Higher Education (1993)	X	X	X	X
Act on Higher Education (2005)	X	X	X	X
Fundamental Law 2011	X	X		
Act on National Higher Education (2011)	X			
Act on Scientific Research, Development and Innovation (2014)				

Overall, the current Fundamental Law and the 2011 Act on National Higher Education provide some protection to the freedom of teaching and research, but they are much less detailed than previous regulations, thus weakening the statutory protection of academic freedom. In addition, there is some uncertainty as to what extent autonomous institutions can limit individuals' freedom of teaching and research. Other elements

of academic freedom, such as the right to disseminate knowledge and shape the academic community, are not mentioned at all, although they are not explicitly restricted either. The partial erosion of legislative guarantees means that the respect or violation of academic freedom depends on the whim of decision-makers at policy and institutional levels. That makes the analysis of institutional level decision making an important topic as well.

5.

Institutional Autonomy and Self- Governance

Self-governance by the academic community is an essential guarantee of academic freedom. Self-governance ensures that the conditions for academic work are such that academic and professional considerations – rather than, for example, economic and political considerations or the utilitarian expectations of external stakeholders – are given due weight.

Self-governance by the academic community can be exercised partly at the sectoral and partly at the institutional level. In its absence, academic freedom may still apply, theoretically, but the conditions are much less predictable, and greater uncertainty may reduce the risk-taking and critical attitude of academics and researchers, thus reinforcing their self-limitation.

5.1. Autonomy and self-governance at the sectoral level

Self-governance at the sectoral level can be achieved through buffer organizations, where academic sector representatives develop common sectoral policies. Such intermediate bodies were created after the regime change, but their position has been constantly changing. We will briefly review the situation of two important organizations for institutional autonomy and academic freedom: the Hungarian Accreditation Committee and the Hungarian Rectors’ Conference.

5.1.1. The Hungarian Accreditation Committee

The Hungarian Accreditation Committee (HAC) has overall responsibility for higher education quality development and accreditation. The HAC is responsible for program and institutional accreditation procedures, the accreditation of doctoral schools and the evaluation of university professors. When HAC was set up, it was still a self-governing body. From the 2000s onwards, the HAC became more and more of a consultative body, i.e., it became possible for the Ministry to approve or reject study programs or institutional licenses irrespective of HAC decisions. In practice, it is rare that an institution or study program, having received a favorable decision by the HAC, is not allowed to start up. However, the reverse is true (Bazsa 2014b; ENQA 2018); that is, programs

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Since 2015, the establishment of new study programs has been subject to prior authorization by the Minister (responsible for HE), so that the intention to establish a program no longer necessarily reaches the accreditation stage.
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rejected by the HAC were authorized by the government. The possibility for the Ministry to overrule the HAC was seen by some interviewees (I6, I8, I24, I28) as a sign of a weak HAC. One interviewee (I28) felt that the government gives the HAC's views little weight, and that in the end it is the government that decides.

Since 2015, the establishment of new study programs has been subject to prior authorization by the Minister (responsible for HE), so that the intention to establish a program no longer necessarily reaches the accreditation stage.

It is worth noting that the learning outcomes of bachelor's and master's degree programs in Hungary are defined in a ministerial decree, the so-called Training and Outcome Requirements Decree.⁷ This practice makes the degree structure inflexible. In addition, any modification of existing programs or the establishment of a new program requires the involvement of the Ministry, limiting the academic autonomy of universities (see later).

The Act on National Higher Education adopted in 2011 strengthened the dependence of the HAC on the government. For example, the composition of the HAC's main decision-making body, the board, was changed and nine of the 20 members are now appointed by the Minister (previously, the Minister did not appoint members). The Minister also nominates the president in consultation with the Hungarian Academy of Sciences (HAS).

TABLE 4: COMPOSITION OF THE HAC BOARD BY DELEGATING ORGANIZATION

ACT OF 2005 ON HIGHER EDUCATION	ACT OF 2011 ON NATIONAL HIGHER EDUCATION
15 members by the Hungarian Rectors' Conference 3 members by the Hungarian Academy of Sciences 5 members by research institutions 1 member by the National Council for Public Education 1 member by the National Minority Committee 4 members by chambers and national professional organizations interested in the operation of higher education	9 members by the Minister responsible for higher education 2 members by the Hungarian Academy of Sciences 1 member by the Hungarian Academy of Arts 3 members by the Hungarian Rectors' Conference 2 members by churches 1 member by Hungarian Chamber of Commerce and Industry 1 member by the National Union of Students 1 member by the Hungarian Association of Doctoral Students
The members of the board elect the president.	The Minister nominates the president in consultation with the Hungarian Academy of Sciences.

In practice, however, the members of the board and the members of different committees are usually drawn from academics working in higher education institutions, as was the case in the past (see Polonyi 2008). Therefore, the change in delegation rights and the strengthening of the Minister's direct power of delegation express the increasing influence and dominance of government. On the other hand, the situation also creates the possibility of direct intervention, should it be necessary, since the delegating organizations can recall members with justification and appoint a new member in their place.

Although the government initially sought to exert even greater influence, the loss of HAC independence would have jeopardized its full ENQA and EQAR membership and thus the recognition of Hungarian degrees abroad.

⁷ 18/2016 (VIII.5) EMMI Decree. Available in Hungarian at <https://net.jogtar.hu/jogszabaly?docid=A1600018.EMM&txtreferer=00000001.txt> (Accessed on 21 Dec. 2021).

The government backed down, and the ENQA confirmed in 2018 that “the field of influence of the Ministry has diminished and the HAC has strengthened its organizational and operational independence” (ENQA 2018: 25).

5.1.2. The Hungarian Rectors’ Conference

In 1988, universities and colleges established interest groups to coordinate actions and represent their interests. Art institutions also founded their own interest group in 1995. In 2005 these interest group organizations merged, and the Hungarian Rectors’ Conference (HRC) became the unified interest group of the Hungarian higher education institutions. This, however, increased the heterogeneity of the institutions represented, which, in turn, increased internal tensions and differences of interest, and thus weakened the advocacy power of the HRC (Hrubos 2016: 93).

While the 2005 Higher Education Act granted the HRC the right of consent in several sector-level policies (e.g., qualification frameworks, the establishment of training and outcome requirements, procedural rules for the launch of study programs) and consultative rights in others, the Act of 2011 on National Higher Education no longer includes these rights. In practice, however, the HRC still played a meaningful role in the government-initiated review of training and outcome requirements of all bachelor’s and master’s degree programs in 2015–2016. It is also worth mentioning that the new act radically reduced the delegating power of HRC, decreasing the number of representatives HRC can delegate in other higher education (buffer) organizations. This has reduced not only the weight of the HRC but also the closeness of its relations with other (buffer) organizations.

The HRC was not able to significantly influence the changes in the higher education sector in the 2010s. Initially, HRC criticized the government’s lack of transparency and the fact that they were receiving information on major changes through the press without the ability to exercise any consultative rights. However, HRC was also criticized by academics for its inability to take the initiative in controversial issues in higher education (e.g., the case of the model change of SZFE or gender studies, discussed below) and for its failure to communicate its views to the public in defense of

the higher education sector and institutional autonomy (e.g., the reorganization of the research institutes of the Academy of Sciences, or the model change process) (see Bazsa 2020). For example, the HRC did not join the Vienna Declaration of 2018, the joint declaration of the rectors’ conferences of the neighboring countries on the defense of institutional autonomy and academic freedom (EUA 2018b; Gardner 2018). The HRC also remained silent when the rectors’ conferences of neighboring countries issued joint declarations on specific Hungarian higher education affairs, for example the SZFE case (UNIKO 2020) or the restructuring of the academic research network (HAS 2019).

Overall, the role and importance of buffer organizations have gradually weakened since the 2000s, with the state’s increasing powers of control. The devaluation of buffer organizations continued from the 2010s onwards. The role of sectoral consultation has declined significantly, and buffer organizations have either been marginalized or reduced to a consultative role where their position can be overruled or overridden if necessary. Since the 2000s, the government has strengthened the mechanisms for direct management and control of institutions rather than the indirect management based on buffer organizations. This approach is also reflected in changes in institutional autonomy.

5.2. Autonomy and governance at the institutional level

Academic freedom depends on the ability of an institution’s academic community to shape the wider and narrower conditions of teaching and research. This depends on the division of powers between the institution and external authorities (what the institution has the right to decide) and on the institution’s internal decision-making system (by whom and how these decisions are taken). While the former is the level of institutional autonomy, the latter is the level of self-governance.

It is important to examine both issues from the point of view of academic freedom, because both the lack of institutional autonomy and the lack of self-governance limit academic freedom. In the case of low levels of institutional autonomy or low levels of self-governance, the academic community cannot shape important policy decisions affecting teaching and research. A case in

point is when a high level of institutional autonomy is combined with a low level of self-governance. This can happen in management-dominated universities, where the management is not accountable to the academic community and can make fundamental decisions, overriding the views and interests of the academic community in decisions affecting academic freedom.

The autonomy of Hungarian higher education institutions might be best described by a pendulum swing (Kovats et al. 2017): the low level of institutional autonomy that existed before the regime change of 1989 was first significantly increased in the 1990s, then gradually decreased again from the 2000s onwards, only to be drastically decreased from 2010 onwards.

In 2019, public higher education institutions started to be transformed into private institutions, which brought about other changes. Therefore, we discuss the change of institutional autonomy and self-governance over three periods: before 2011, between 2011 and 2019 and after 2019.

5.2.1. The institutional autonomy of higher education institutions before 2011

Before 1989, the higher education system was modelled on the Soviet system. The autonomy of institutions was low (Kovats et al. 2017). After the regime change, institutions regained a significant part of their autonomy. In the early 1990s, the government did not seek to control the operation of institutions in terms of the content of teaching and research, but rather in terms of funding and the way decisions were made. From the 2000s onwards, however, institutional autonomy in many areas gradually began to diminish as government demands for control and accountability increased. Changes such

as the forced mergers of public institutions (2000), the abolition of institutions' right to select students to bachelor programs (2005), the top-down introduction of the multi-cycle degree system in the Bologna process (2005) and the introduction of performance contracts (2007) illustrate this trend. The role of the external quality assurance system was also reinforced (2005).

During this period, institutional decisions were taken by a body (university council, then senate) composed mainly of academics and students, thus allowing the academic community to shape the conditions of research, teaching and learning. In 2005, an unsuccessful attempt was made by the government to introduce boards with external members responsible for finance and strategy, but the Constitutional Court found the legislation unconstitutional in that it limited institutional autonomy and the self-governing capacity of institutions (Constitutional Court 2006). As a result, a supervisory body with consultative power was appointed instead (2006).

5.2.2 The institutional autonomy of higher education institutions between 2011 and 2019

Between 2011 and 2019, institutional autonomy was further reduced by an amendment to the Fundamental Law in 2013. The amendment created a legal basis for the government to determine and supervise the management of institutions, thus providing the possibility for more direct regulation of their operation. Several changes were introduced, which resulted in a significant reduction of autonomy in several areas, which is reflected in the ranking of Hungary on EUA's institutional autonomy scorecard in 2011 and 2017.

The scorecard defines institutional autonomy as the institutions' decision-making powers on organizational issues,

TABLE 5: INSTITUTIONAL AUTONOMY ON EUA'S AUTONOMY SCORECARDS

	2011			2017		
	Value	Ranking*	Category**	Value	Ranking***	Category
Organizational	59%	16	medium-low (3)	56%	23	medium-low (3)
Financial	71%	6	medium-high (2)	39%	28	low (4)
Staffing	66%	17	medium-high (2)	50%	22	medium-low (3)
Academic	47%	24	medium-low (3)	58%	16	medium-low (3)

* The number of countries in the ranking is 28 / ** There are four categories / *** The number of countries in the ranking is 29
 SOURCE: Estermann et al. (2011), and Pruvot – Estermann (2017)

funding issues, staffing issues, and academic issues. The changes are presented according to these categories.

Between 2011 and 2019, the government strengthened its control over the management at the expense of the **organizational autonomy** of the institutions, gradually increasing its influence by appointing so-called financial inspectors, internal auditors and financial directors (Kovats 2014; Gardos 2012). In 2014, the position of chancellor was introduced, citing the wasteful management of the institutions and their non-compliant operation (Nemeth 2015). The chancellor is a senior manager appointed by the prime minister, on a par with the rector. The chancellor, who is responsible for an institution's budget and administration, with veto powers over these matters, can be from outside of the university, and is not required to be an academic or have experience in the higher education sector. The rector's responsibilities are limited to academic matters. The demarcation of the powers of the two equal heads remained unclear even after several amendments to the law. The perception of the chancellor position was highly controversial from the beginning (Kovats 2016). Depending on the chancellor's character and the strength of their ties to the institution, they might be seen as governors delegated by the government, dialogue facilitators, or good lobbyists. Accordingly, dual leadership worked harmoniously in some institutions, but in others an increasingly self-serving

and entrenched chancellor's administration and growing bureaucratization led to tensions (Kovats 2016). In 2015, a new supervisory body called consistency was also created to oversee the institutions' operations, with veto power over the budget, institutional strategy and R&D strategy. In practice, the consistories have little influence on the functioning of the institutions, although they have the right to exercise a power of veto.

For a shorter period, the government also played an active role in the selection of rectors. While in the previous decades, the Ministry had only exercised legal supervision over the rector selection process at the institutions, after 2011 the Ministry started to actively influence who was selected. The intervention of the Ministry resulted in the appointment of several rectors who only obtained a minority of votes in the institutional elections. The regulation which ensured this possibility was abolished when the legislation regarding the appointment of the chancellors was accepted. Since 2012, the government has also forced new (de)mergers and sectoral reorganizations (establishment of the National University of Public Service, mergers in 2015, reorganization in 2019).

We are also witnessing a significant reduction in financial autonomy. On the one hand, public support has decreased: from 2010 onwards, the government withdrew significant resources from the sector, resulting

FIGURE 2: MAJOR ACTORS IN THE GOVERNANCE OF PUBLIC HIGHER EDUCATION INSTITUTIONS IN HUNGARY

TIME PERIOD	CHIEF EXECUTIVES		PRINCIPAL DECISION-MAKING BODIES	
BEFORE 2006	RECTOR		SENATE powers determined by the law	
2006-2015	RECTOR*		SENATE powers determined by the law	FINANCIAL BOARD Consultative power / members are selected by the Senate and the Ministrie(s)**
SINCE 2014-2015	RECTOR	CHANCELOR	SENATE powers determined by the law	CONSISTORY Veto power / members selected by the Ministry
SINCE 2019	RECTOR	DEPENDS ON THE BOARD OF TRUSTEES	SENATE powers determined by the law and the board	BOARD OF TRUSTEES Decision-making power / members selected by the Ministry

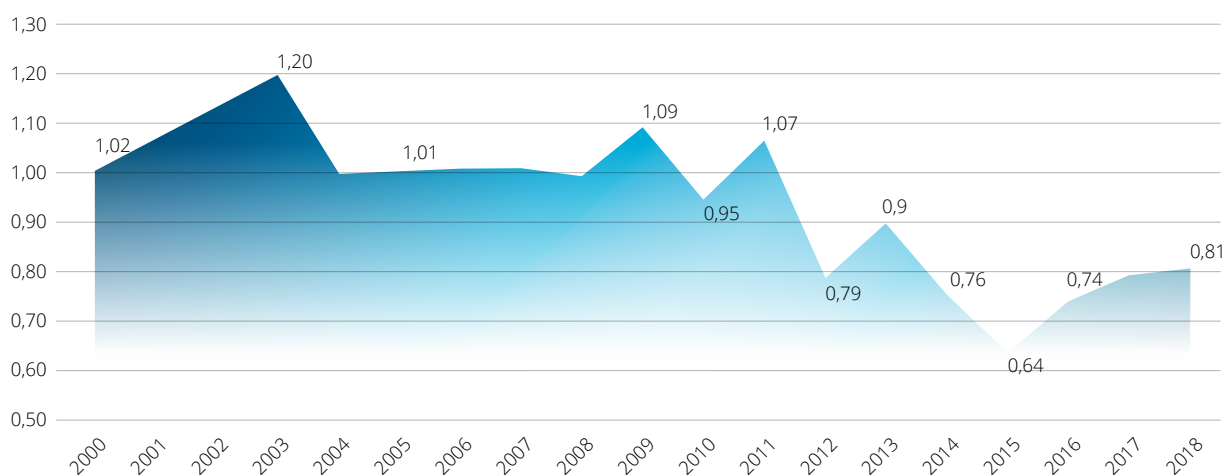
Actor with **less** decision-making power
 Actor with **more** decision-making power

* From 2010, financial inspectors (appointed by the government) and financial directors (appointed by the government) controlled university spending. The government also appointed internal auditors. In addition, from 2011, the selection of rectors was influenced by the Ministry responsible for HE.

** Until 2010, the majority of members were delegated by the Senate. Between 2011 and 2013, several ministries delegated members and Senate candidates were in the minority. After 2013, the Economic Council was no longer compulsory, and the selection of members was entirely up to the institutions.

in a decline in public support for higher education by almost 50% in real terms from 2008 to 2013 (EUA 2021); thus, the government expenditure on higher education as a percentage of GDP fell from 1% to 0.6%. Later, public funding started to increase and reached 0.8% by 2018, which is still lower than the average for most of the surrounding countries as well as the EU and OECD.

FIGURE 3: GOVERNMENT EXPENDITURE ON TERTIARY EDUCATION AS A PERCENTAGE OF GDP (%) IN HUNGARY



SOURCE: UNESCO Institute of Statistics. <http://data.uis.unesco.org/#>

Public funding allocation mechanisms have also changed. Instead of formula funding and performance contracts, the weight of direct institutional funding and earmarked grants increased considerably from 2012 onwards. This has allowed the government to directly reward and punish institutions more severely than before through financial subsidies or deductions (Beracs et al. 2017).

Overall, the transparency of the funding system has deteriorated, and the direct dependence of institutions on government has increased with the appointment of chancellors, who “have to approve all decisions with financial implications, which leaves, in effect, no capacity for the university to decide on internal funding allocation” (EUA 2017: 91).

The level of **staffing autonomy** was affected by the public servant status of all employees. The recruiting, rewarding, and dismissing of public servants was highly regulated by Act XXXIII of 1992 on the status of public servants, making it difficult for institutions to allocate human resources

freely. This leads to a lower level of autonomy. At the same time, these rules also provide some guarantees for academics. A challenge for institutions is the meagre pay

of academics, which makes junior positions particularly unattractive. The appointment of chancellors also affects the staffing policy of the institutions because they could use their prior consent right to influence these decisions in a way not in line with academic considerations.

Two main factors in **academic autonomy** are worth highlighting. First, since 2005, institutions have not had the right to select undergraduate students because of the centralized, national admissions system. In addition, in 2011, the government changed the mechanism for allocating state-funded study places to institutions (and study programs). Instead of an allocation algorithm based on student preferences, the government directly determines the number of places (and thus the associated institutional funding). This has further reinforced the dependency of institutions on the government, because funding is linked to the number of students, which in turn is partly determined by the government for each institution and program.

Another critical factor is that institutions are not allowed to establish study programs on their own. In a situation that is quite unique in the European Union, the government regulates the range of programs

that can be offered in higher education by ministerial decree. This legal constraint not only makes the education system extremely inflexible, but also increases the dependence of higher education institutions on the government. The Minister can approve or cancel programs unilaterally, and can also shape the outcome requirements (expected learning outcomes) without involving the academic community.

Although this regulation has been in place in Hungary for a long time, unilateral enforcement of government intentions was not common in earlier periods. For example, during the introduction of the two-cycle training structure (between 2006 and 2009), institutions jointly developed the range of study programs and their learning outcomes, which were later accepted by the Ministry. However, since 2010, there have been two cases where

the government has used its regulatory power to eliminate programs almost unilaterally. In 2015, 21 bachelor programs were eliminated amid protests from institutions, including popular programs such as andragogy,

social studies and cultural anthropology. This reflects the vulnerable position of the institutions, which can easily lead to a loss of teaching freedom. In 2018, despite significant protests, the Gender Studies master-level program was abolished for political reasons.

These decisions undermine not only the academic autonomy of the institutions, but also their freedom to teach. Even if the academic community (e.g., Eotvos Lorand University (ELTE), and HAC) supports a program because it meets academic and professional standards, the government can easily ignore this for political or other (e.g. financial) reasons. The government can also prevent the launch of a program even if it does not require public funding. This infringes on the academic freedom of those who teach in the program. It is debatable, whether the state, as the maintainer of a public institution, has the right to determine the program portfolio. However, it is difficult to justify that a study program generally accepted by the academic community cannot even be offered in a private institution or a fee-paying form.

THE ABOLITION OF THE GENDER STUDIES MASTER PROGRAMS

The weakness of the legal protection of academic freedom and academic autonomy can be illustrated by the history of the abolition of the Gender Studies master-level program.

The Hungarian Accreditation Committee accredited the study program in 2016, supporting its launch at Eotvos Lorand University (ELTE). The program was published in a decree issued by the Minister responsible for higher education, which sets out the training and outcome requirements of all state-recognized study programs. Therefore, it was certified as being academically sound, and its existence was based on ministerial approval following the legislation in force. Accordingly, the program was advertised by ELTE and by the Central European University in the 2017 general admission procedure. Shortly after, the President of the Christian Democratic Youth Alliance questioned the Rector of ELTE about the program's launch, which attracted considerable press coverage. He referred to the study program as something which has "no use to Hungarian society, a misguided subject that is stifled by political correctness and masquerades as science." He also required the Rector to set up a demography institute "but certainly not with the same lecturers and reading list as for gender studies" (IKSZ 2017).

Despite political wrangling, the admission procedure was completed, with 10 out of 34 applicants to ELTE admitted with state support. The program was also offered in 2018 with a similar number of applicants admitted. Although there were applicants, fee-paying students were not admitted in either year. At the Central European University (CEU – a private university), a small number of fee-paying students were admitted to the program, taught in English (like all CEU programs).

Regardless of the successful launch of the program, the political attack did not abate. Although both the universities concerned and the national and international academic community have argued for the importance of the program, in summer 2018 the government removed it from the list of approved programs by a ministerial decree. ELTE was forced to abandon the program (HVG 2018a). Students who had already been admitted could complete the program under the same conditions, but it could no longer be offered in the 2019 admission procedure.

The amending decree did not contain any justification. However, in response to a question, the Ministry justified the decision by saying there was no demand for the program, that there was no need for it on the labor market, and that the low number of students made the program uneconomic, which was unacceptable in a publicly funded university (HVG 2018b).

However, the decision not only banned the program from being taught in a state-subsidized form or in a state-run university but also made it impossible to offer it in private institutions or for fee-paying students. The government could have chosen to leave the program in the decree but not to allow publicly funded places.

Therefore, the real reason could be the ideological–political undesirability of the program. In 2017 the Secretary of State of the Ministry questioned the academic merit of the program in answering a parliamentary question stating that “gender, like Marxism-Leninism, is more of an ideology than a science, so it is doubtful whether it will reach the university level. The content of the course runs counter to everything the government values about man” (Retvari 2017).

Overall, the dependence of public institutions on the government increased significantly during this period, reducing their autonomy and resilience to changes that infringed on their academic freedom. Many decisions can, in practice, be taken by the institutions, but there are increasing opportunities for a government to change or retaliate against decisions they do not like. This can make institutions and/or their leadership very cautious.

Amongst those decisions that, in practice, remain within institutional competence, the Senate’s role as the institution’s main decision-making body remains essential. However, actors appointed externally (chancellor, financial inspector, internal auditor) or bodies with veto power (Consistory) can influence decisions in an increasing number of areas.

5.2.3 Institutional autonomy and self-governance of higher education institutions after 2019

In 2019, a pilot project called “model change” was launched, involving four public higher education institutions that were transformed into private ones maintained by so-called public interest trusts. Although the five-year strategy for higher education (published in 2015 and revised in 2016; see MIT (2016)) does not mention any kind of pilot experiments, to the surprise of the higher education sector, in a very short time the pilot project was extended to almost the entire sector. Formally, the government started the model change process at the request of the Senates of each institution (except for the first institution in the process). Furthermore, the government promised substantial financial support to those institutions switching to the new

model. Consequently, while in 2018 there had been 28 public higher education institutions with 88% of all students, by autumn 2021 there were only 6 (with around 20% of students). The rest of the students studied in private or church institutions.

As a result of the model change, control over the institutions is now exercised by the boards of trustees, instead of the state. It is the board which can (and usually does) decide on the selection of the rector, the appointment of other senior university leaders (vice-rectors, chancellor, finance director), the budget, and the adoption of the university’s organizational and operational rules (this includes the university’s organizational structure but also the rules on employment of academics, and the selection and evaluation of students). As the constitutionality of this division of powers was challenged by one of the universities (see the SZFE case below), the matter was referred to the Constitutional Court. The Court decided (Constitutional Court 2021) that it is sufficient to allow the senate the right to give an opinion on these matters. In addition, the state has transferred to the institutions (or trusts) the real estate used for their operation and has concluded long-term funding contracts with the trusts, in which funding and expected performance (indicator targets) are fixed for six years in advance. The performance contracts allow the institutions to obtain significant additional funding (depending on performance).

According to the government, the new funding and operational structure will lead to a more predictable environment for the institutions and increase their flexibility and adaptability. They will no longer be part of the state budget (or considered state budgetary institu-

tions) and will be subject to the regulations applicable to business entities. Boards of trustees will also devote more attention to the institutions they oversee than the state, thus strengthening their strategic management and capacity to adapt to the environment. Flexibility will also be enhanced by the abolition of the status of university employees as public servants, which will allow for the recognition of performance and greater pay differentiation. At the same time, the state will continue to assume responsibility for the higher education sector as a regulator and by providing public funding through performance contracts. Overall, the government claims that the autonomy of institutions will increase because institutions and trusts have become the true owners of the buildings, and they can operate like business enterprises (**financial autonomy**), they can allocate human resources more freely by abolishing public servant status (**staffing autonomy** – see later) and institutions are becoming more distant from and less dependent on the state (**organizational autonomy**), while **academic autonomy** remains protected by the Fundamental Law (Magyar Nemzet 2021).

According to those who oppose the plan – academics, representatives of academic communities and politicians from the opposition – the transformation will further reduce institutional autonomy and self-governance in all four dimensions. **Organizational autonomy** will be reduced because the board of trustees can (and in practice does) take away more decision-making power from the institution. The senate can only take decisions on matters authorized by the board, which can also reduce the powers of the senate at any time. However, the board cannot be considered either as part of the institution (the trust and the institution are two separate legal entities by law) or as a credible representative of the community of academics and students. The elected bodies of the institution have no influence on the composition of the boards of trustees; for example, they have no say in the selection of the members, nor do they have any insight into the functioning of the boards. In addition, the institution's influence on the selection of academic officers can also be reduced.

The members of the boards of trustees were appointed by the government for life. In some appointments, the government took into account the suggestions of universities, in others it ignored them. The selection process was not transparent. Of the 106 seats on the boards of trustees of the 21 trusts, 35 are occupied by active politicians of the governing party (ministers, state secretaries, members of parliament, etc.), but many other seats are distributed to businessmen and intellectuals openly sympathetic to the government.⁸ In addition, from 2022, the state may withdraw from shaping the composition of the boards, which will be determined by the boards themselves, thus cementing the status quo. The rules and criteria for the election of new trustees are not known either to the institutions or the public. Overall, the composition of the boards of trustees has been the subject of much criticism and has increased distrust of them.

The controversial relationship between the board of trustees and the higher education institution was most clearly illustrated in the SZFE case, where the fundamental question was ultimately: who represents the university? Who can exercise the rights granted to the institution by law? Whose interests prevail when there is conflict over the institution's fundamental mission of teaching and learning: university leaders appointed externally without involvement of the academic community, or the academics, students and their elected bodies? The SZFE case demonstrates that in a conflict, the opinion of the board of trustees prevails over that of the community of academics and students. The Constitutional Court confirmed that.

⁸ See <https://modellvaltas.kormany.hu/alapitvanyok>

THE SZFE CASE

The University of Theatre and Film (Színház és Filmművészeti Egyetem, SZFE) was a public university until 2020. Preparations for the model change started in January 2020. On August 1, the government appointed the members of the board of trustees. None of the proposals of the Senate of the SZFE were taken into account. The actual model change took place on September 1, 2020, during which the board of trustees unilaterally withdrew all relevant decision-making powers from the Senate without consultation. The university's Senate and its leaders complained that, despite their requests, the representatives of the institution had been completely excluded from the consultation process and had resigned in protest against the unilateral decision of the board of trustees. Academics went on strike, and students locked down the university's central building on September 1 to protest against how the transformation was being carried out. The lockdown continued until November 9, when the government closed the university buildings, citing epidemic regulations.

The student protest, which lasted for more than two months, was accompanied by a series of street performances and attracted considerable national and international publicity. The protests were actively supported by the local (SZFE) Student Union, many academics and several national and international artists. During and after the protest, a significant number of academics left the institution. Together with students, some of them formed an association called FreeSZFE, where they continued teaching. The association also organized opportunities for students who did not wish to continue their studies at SZFE to finish their studies and obtain degrees from foreign institutions.

The board of trustees, with the government's tacit support, declared the protest illegitimate and politically motivated. In the board's view, the institution's performance was low, and its education has been "closed" and "exclusivist" for some 30–40 years. (szinhaz.online 2020; European Parliament 2020) According to the chairman of the board of trustees, the university "only trains according to one kind of idea, a left-liberal idea," and SZFE "was a very important institution for the communist regime, and unfortunately, it still is" (Vidnyanszky 2020). The board, however, aimed to improve the performance and balance the ideology. In the chairman's opinion, the protest was organized by the opposition parties and by academics protesting against these aims while the protesting students were deluded and represented only a vocal minority of the institution. Moreover, the protest made education impossible, and the prospect of the students' semester not being recognized was also raised.

The protesting academics and students rejected these accusations (litera.hu 2020) and published statistics, documents and video footage to support their claims that the university is effective and functioned properly even during the protests. In their opinion, it was the board of trustees and the new management of the university who were obstructing the freedom of teaching and learning and the teaching process with their administrative measures (for instance, closing the Neptun administration system, cutting Internet access, evacuating dormitories; see SZFE 2020). The Student Union also filed a lawsuit against the public interest trust, invoking those provisions of the Fundamental Law and the National Higher Education Act that protect the freedom of teaching and learning. The lawsuit resulted in a Constitutional Court ruling that "the board of trustees and the Senate are bodies with the same interests, as they share the responsibility for ensuring the operational efficiency and the quality of teaching and research of the higher education institution" (Constitutional Court 2021b). The ruling also considered it a sufficient condition of institutional autonomy that the senate, representing the academic community, could express its opinion, which the board of trustees would then consider.

Overall, the **organizational autonomy** of the institution may increase or decrease depending on how boards regulate the competence of senates. It seems certain, however, that the dependency and vulnerability of the academic community are increased as a result of the model change, since the boards of trustees gain

a say in the structure of the institutions, their staffing policy, profile and selection of their leaders in a way that the academic community cannot truly control or influence. This makes it more difficult for the community to protect academic freedom.

The same is true for **financial autonomy**. Institutions can borrow funds and manage their property with the permission of the board. Although the state promises to increase financial support to the institutions, at least half of them receive the support through their public interest trusts, thus increasing the dependence of institutions on the boards, which in turn are appointed by the current government.

The loss of public servant status is particularly important from the point of view of **staffing autonomy** and academic freedom. The public servant status had limited the authority of institutional leaders because termination of employment could only be based on statutory grounds. The employer had to prove the academic's incompetence, which is close to impossible in a Hungarian court. While this made it more difficult to dismiss poorly performing or incompetent academics and increased the inflexibility of institutions, it also provided a form of immunity for all academics so that they could not be dismissed for dealing with sensitive research topics or for emitting strong criticisms of various interest groups in a professionally justified manner. This kind of in lieu of tenure protection will disappear with the abolition of

public servant employment. Academics under the Labor Code will receive less protection, as an employment relationship may be terminated for any reason related to the employer or the employee's work (only real and reasonable justification is required). This increases the autonomy of the institutions in staffing, but also increases the dependence and vulnerability of teachers and researchers, and might endanger academic freedom.

5.2.4 Research funding and the autonomy of research institutions after 2010

In addition to the development of institutional autonomy of higher education institutions, the funding of basic research and the academic research network is also worth mentioning. These organizations also represent academic communities, and their autonomy has been strongly affected by government restructuring, similar to those changes made in higher education.

The Hungarian Scientific Research Fund (HCRF), previously overseen by the academic community under the supervision of the Hungarian Academy of Sciences (HAS), has been brought under the direct control of the government.

THE HUNGARIAN SCIENTIFIC RESEARCH FUND

The Hungarian Scientific Research Fund (HCRF), a public funding system for basic research, was set up in 1986. For a long time, the system operated under the supervision of HAS, with funding allocation decided by peer review panels of academics, in a similar way to the European Research Council. The most important decisions (appointing the members of the panels and making the final funding decisions) were taken by the HCRF Committee, to which the government and the scientific bodies delegated members, although government representatives were in the minority.

In 2014, the government suddenly merged the HCRF into a new independent government agency, the National Research, Development and Innovation Office (NRDIH). The declared aim was to make public funding more coordinated, transparent, and efficient, and more financial support for basic research was promised. Review panels were kept, but the role of the HCRF Committee was henceforth taken over by the President of the NRDIH, who was appointed by the government. The change in the position of the HCRF was seen by many as a weakening of the autonomy of the academic community (Klaniczay et al. 2014).

In 2019, the NRDIH was downgraded to a national agency under the Ministry of Innovation and Technology, and a Deputy State Secretary approved funding decisions. In 2020, the Ministry overruled the decision of the peer review panels and deemed 16 proposals (already rejected by the panel) eligible and provided funding for them. Some of these proposals were ranked in lowest place by the panels, while others were submitted by employees of the Ministry. The Ministry had three arguments: first, they provided extra money for these new proposals. Second, the principal investigators of these projects had better publication results than other proposals. And finally, these proposals were "more promising" from a policy perspective (Spirk 2020).

In a letter to the Minister, the President of the Academy of Sciences wrote that “it is not a question of how many cases of intervention have been made, nor even of the merit of the applications whose ranking has been changed. One of the most important values in science, including its funding, is trust and credibility, which is being damaged by this move” (Freund 2020). The Ministry indicated in 2020 that it would like to return decision-making powers over the HCRF to the Academy of Sciences (HAS), but this has not yet happened (ITM 2020).

The academic research network of HAS was a major force in the scientific life of Hungary. The network was supervised by HAS, a public body that enjoys considerable autonomy and provided a protective net for its research institutes. In 2019 the network of research

institutes was removed from the supervision of HAS and is now managed by a board, half of whose members are appointed by the government. The research network currently consists of 11 research centers, 7 research institutes, and several research groups.

THE REORGANIZATION OF THE NETWORK OF RESEARCH INSTITUTES

Another case of challenging institutional autonomy and self-governance is the reorganization of the network of research institutes. The network was originally supervised by and part of the HAS. Planning of the reorganization started in 2018. Although the government’s objectives changed during the restructuring process, it was publicly justified by the authorities with reference to a need for more flexible and efficient use of resources, the low contribution of the research network to innovation processes to date, and the overall unsatisfactory scientific performance of the network. HAS protested against the restructuring, denying allegations of underperformance, citing the world class results of some of the institutes (MTA 2019), and calling the Ministry’s procedures unfair.

The process, marked by considerable tension, press coverage and protests, ended in September 2019, when the research institutes were placed under the umbrella of an autonomous budgetary body, the Eötvös Loránd Research Network Secretariat (ELKH). Under the new structure, the research institutes are overseen by the President of the ELKH and a 12-member governing body, to which the HAS and the Minister responsible for science policy nominate 6-6 members, with the President being nominated jointly. The Prime Minister appoints the members. This governing body decides, among other things, on the creation, restructuring and closure of research institutions, their budget, evaluation and reporting, the selection of their directors and the rules for employing researchers. Related to this, from November 2020, researchers will no longer be public servants and will continue to perform their duties under the Labor Code. Therefore, their protection has also been reduced.

After an overview of the transformation processes in the academic sector, some general patterns can be identified.

First, from the point of view of academic communities, there has been a strong centralization of higher education and research. Some of the processes had already begun in the early 2000s, but the government’s appetite for direct control and its desire for a dominant role intensified after 2010. Almost without exception, restructuring was justified by an alleged need to improve efficiency and effectiveness, and was accompanied by the promise of a significant increase in financial support.

Second, the decision-making role of academic communities in general has been reduced. The financial and strategic decisions have been taken over by new bodies (boards of trustees, governing boards) or actors; the government has a decisive or exclusive influence on their composition or decisions. In the case of higher education, the decision-making power and self-governance of the academic communities has also been reduced, especially since the 2010s, as more and more external actors (chancellors, financial inspectors, managers appointed by the board of trustees, etc.) have limited the decisions taken in the academic field.

Third, the accountability of and control over the new, government-mandated governing bodies are weak, especially to and by the academic community they are mandated to govern. The decision-making processes of the new governing bodies are less transparent. For example, in the case of higher education, the boards of trustees are not obliged to justify any changes to the senate's powers; this is unlike the state, which is bound to do so as a legislator. Or, as in the case of HCRF, decisions of academic review panels can be overridden without any explanation. As a result, the dependence and vulnerability of academic communities have increased.

Fourth, in theory these changes do not mean that the self-governance of the academic community must necessarily diminish, or the actual decisions become worse. However, the framework is created for actors (appointed by the government) or boards (influenced by the government) in decision-making positions to impose their wishes and views even against decisions taken by the academic communities (see SZFE case, HCRF restructuring). Kortvelyesi (2015), for example, argues that the changes in the decision making of HCRF do not necessarily lead to the disappearance of independent decisions, "but there are no substantive guarantees left, independence under the new rules being essentially at the discretion of the President [of the agency which supervises the fund – authors' addition]" (Kortvelyesi 2015: 8). He continues: "(N)or can

it be argued that the allocation of funds for basic research is worse, nor that it is done in a better system. All that can be said with certainty is that the legal guarantees have been weakened and have disappeared at crucial points, which, even independently of the intentions behind the new system, poses a significant risk for the future" (ibid.: 16).

We can conclude that all these legal and regulatory changes do not automatically imply a violation of academic freedom. However, the absence or low number of violations of academic freedom is not the result of legal (or constitutional) guarantees, but of the individual decisions, attitudes and whims of governing bodies and their appointed leaders. While these bodies have considerable influence on the conditions under which researchers and teachers work, academics have fewer and fewer means of supervising and influencing the bodies and individuals with a management role. These changes, as well as the transformation of public servant status into employee status, increase the dependence and vulnerability of academics because – as the case of the SZFE shows – in the event of academic freedom being infringed, there are no meaningful means of asserting academic and professional interests either individually or as part of the academic community. This, in turn, represents a threat that could lead to loss of academic freedom. In the section, we present the actual experience regarding academic freedom.

6.

Freedom to Teach and Research

Systematic and comprehensive empirical research on the actual state of freedom of teaching and research in Hungary is currently unavailable. Therefore, we have built our report on the data collected through interviews and case studies, as we outlined in our methodology chapter.

It is important to emphasize that the responses do not explicitly indicate a comprehensive, systemic or even regulatory restriction on academic freedom. Few of our interviewees (8 out of total of 31) coming from five different universities confirmed that they experienced direct interference in what they teach, research or how they teach. A majority of the interviewees stated that they had not felt any retaliation for their professional opinion, research topics or public statements. While there are constraints regulating teaching or research activities (e.g. curricula or research approval processes), the majority felt that these constraints are indeed legitimate. The majority opinions reflect that there is no systematic or institutionalized effort at the sectoral or institutional level to openly restrict academic freedom in Hungary. Despite the restructuring, institutions still protect academics and researchers.

At the same time, some interviewees reported that they had been subjected to direct institutional or political pressure because of their research topic or point of view, raising questions about the strength of legal guarantees and the protection they can provide.

According to some interviewees (I1, I9, I20), violations of academic freedom are isolated incidents, which are more likely to result from individual errors or weaknesses, the poor functioning of an institution, or inadequate regulation. They also think that these incidents are inevitable in higher education. These interviewees do not believe there is a systemic problem. The spectacular cases of open violations of academic freedom (e.g., the SZFE case, the banning of gender studies) are typically explained by exceptional circumstances. There is also an interpretation in the interviews that higher education reforms, such as the model change, aim to make performance more transparent, and reinforce the performance principle. Some argue that reference to restriction of academic freedom is often part of the defense strategy of lower-performing academics and researchers who try to justify (in advance) their inadequate number of publications or poor teaching performance.

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The recent developments in the Hungarian higher education system have increased academics' insecurity, vulnerability, and dependency, leading them to choose less risky research and teaching topics or even to self-censor.

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Another narrative is that there are no external limits to freedom of teaching and research in many fields (e.g., natural sciences) except for funding. But in the social sciences and humanities, especially in high-intensity public discourses (gender, migration, LGBTQ, etc.), there is already a significant degree of self-censorship, conformity and adjusting. Several interviewees reported that they used self-censorship or had witnessed it in their immediate collegial environment or had experienced it in general (I5, I6, I13, I16, I19, I20, I25, I26, I27, I28, I30). This may stem from individual personal attitudes, but some systemic factors also amplify it.

6.1 Insecurity, dependency and vulnerability

The recent developments in the Hungarian higher education system have increased academics' insecurity, vulnerability, and dependency, leading them to choose less risky research and teaching topics or even to self-censor. One of the interviewees (I15) illustrated the situation with the image of a pistol on the table that has never been used yet, but whose specter is threatening enough for a person to moderate their behavior.

“you don't need these politicians [sitting on boards of trustees – our remark] to ever have any direct say in your curriculum, but you will have it in your head that they are now deciding your fate, that's for sure. So we put the gun on the table and you never have to pull the trigger, and they may never pull the trigger, but that gun, you always see it. It's very powerful. In an environment that's been through that kind of socialization, it brutally re-strains courage.” (I15)

Self-censorship seems to be an important issue. Every second respondent reported that they either use self-censorship themselves or experience it among their closest colleagues (I2, I5, I6, I12, I13, I14, I15, I19, I21, I22, I25, I26, I27, I28, I30).

Some interviewees (i.e. I2, I16) predict that the loss of the protection which was provided by public servant status will make academics increasingly vulnerable and lead to higher levels of insecurity and risk-avoidance. This will be exacerbated by the changing conditions of self-governance.

6.2. Difficulties in accessing the research data

The accessibility of the research data clearly influences the choice of research topics. In particular, almost one-third of interviewees (I3, I15, I16, I22, I23, I27, I28, I30) reported difficulties mainly in areas controlled by the state. For example, two researchers had problems researching in public schools (I3, I19); five spoke about the challenges of researching in prisons, and concerning court sentences (I22, I27, I28, I30). Refugees were also unavailable (I16), but similar tendencies can be observed for health care institutions (HVG 2020; Bereznay 2021; Ferenci 2021). Even if the head of the target institution were to accept to host the researcher, it takes courage to make an independent decision, and it is more common for the request to be sent to a higher level, where it often gets stuck. In some cases, the databases necessary for the research are no longer available, or the research (or the participation in the research) is simply forbidden by the heads of the government departments concerned. All these obstacles make research on certain topics impossible or discourage researchers in the field.

6.3. Performance appraisal systems

Although there have been isolated steps to develop performance appraisal systems in some universities, with the abolition of public servant status and the model change, together with the creation of the ELKH, boards have started to put pressure on institutional managements to develop performance appraisal systems. While we did not encounter any infringement of academic freedom in this respect, several interviewees reported fears about what kind of performance would be recognized and how this would affect their research topics, activities and career progression (I13, I22, I23, I26, I27, I28, I30). The most common fear was that they would be held to expectations that were not realistic in their discipline (e.g. Q1, Q2 publications in humanities or law), or that the system could be deliberately designed to disadvantage certain groups or areas. The lack of adequate performance could ultimately be a justification for dismissal. The fear is that academics will not have enough influence to shape the criteria and process of the performance appraisal system.

Others (I3, I9) believe that this fear is a self-justification strategy for poorly performing researchers, and that

performance appraisal allows for greater differentiation between academics based on excellence, quality and performance.

6.4. “Cancel culture” effect

According to the current Act on National Higher Education, academics should perform educational activities following their world view, ideology and values without encouraging or coercing students to accept these. Academics are also obliged to convey knowledge and information in an objective and manifold manner. In practice, implementing these principles raises many dilemmas, especially on issues that have become highly politicized.

We use the term “cancel culture”, but in a different sense than in the Western world (hence the quotation marks). The original term refers to the restrictions coming from overstressing the rights of vulnerable groups. In Hungary, restrictions stem from mentioning issues linked to human rights, like minority rights, LGBTQ+ rights, women’s rights, as some interviewees indicated (I5, I22, I26, I27). These issues are typically portrayed in a negative light in government narratives. For example, the dilemma for many has become how to present these rights and their choice of values without being stigmatized as using politicization? To avoid being accused of bias or not being academic enough, some select literature for students from the best academic journals. Several interviewees reported avoiding discussing politicized and divisive issues in classes, even if they would otherwise consider this academically justified. Others dare to discuss them only in a very descriptive, value-neutral way, or strive for a forced balance. These academics are most afraid of not being able to keep the unfolding debates in check, or having to deal with students who hold extreme ideological positions. Some interviewees avoided sensitive topics, especially during online education sessions, because they feared that students would record the lesson and use it out of context. These fears may have been fueled by a call from a pro-government website, which not only published biased student accounts of university classes that criticized some academics (Zelenka 2018; Hammer 2018) but also asked for reports from students about the teaching practices of academics who engage in “unsolicited left-wing politicking” and practice “opinion dictatorship” (Sumeghi 2018).

As a result of this climate, many reported that they were afraid of negative feedback from students on a political basis (I16, I19, I26, I27, I28, I30). Some interviewees said that they had indeed received such negative comments (I22, I29).

Overall, it can be seen that the heated public discourse on some topics makes academics more cautious and circumspect when dealing with them. That can even be seen as a positive thing, if academics provide a more comprehensive and thorough view on these issues. But the interviewees suggest that it tends to hinder academic freedom by restricting academics in speaking freely about these issues. Self-restraint may be stronger for early career academics with less authority and less experience in dealing with unexpected student reactions. It might be supposed that the behavior of early career academics is influenced by the stronger scrutiny of university management and the lower protection in their contractual agreements, but we found no evidence of such structural conditions.

6.5. International research collaborations

Several interviewees reported that during the preparation of some international research projects, foreign partners expressed concerns about the quality of guarantees, and about the news that appeared in the press from time to time (I4, 25). In addition, they wondered to what extent Hungarian researchers could produce independent findings. Although the negative consequences of this perception (e.g., dropping out of research projects) have not yet been reported, the phenomenon is worrying because it may indicate that there will be fewer offers of international cooperation and collaboration projects. At the same time, there have also been examples where the controversial situation and perception of Hungary have made the involvement of Hungarian researchers more attractive.

6.6. The distortive effect of research funding

The distortive effect of the domestic research funding system on the choice of topics was also raised in the interviews. Critics of the funding system have argued that the exposure of some disciplines (e.g., humanities,

social sciences) to public funding is too high, and the distorting effect of government preferences is difficult to counterbalance. This reinforces the inclination to choose research topics according to what is funded, rather than according to personal and disciplinary research interests. The emergence of topics preferred by the government in funding inevitably intensifies the trickery. For example, researchers will try to present their own research topics as if they were a government-preferred topic. This attitude undermines the transparency of the research funding system.

Some researchers in areas under strong attack in the public discourses (migration, gender, LGBTQ, corruption, etc.) have reported that they no longer apply for research funding on such topics. They also consider their situation to be disadvantageous in the long term because proposals won are used as a criterion for promotion. A third of the interviewees indicated this problem (I2, I3, I7, I8, I12, I13, I18, I19, I27, I29, 30), mostly indirectly, i.e., either by saying that although they have no chance of getting funding (they do not even try anymore), they continue their research by getting funding from elsewhere, or by “sneaking” the taboo topic into another project.

However, other interviewees (e.g., I9) disagree with the criticisms of research funding. They believe that it is the right of the funder to determine the focus and that this should not be seen as a restriction of academic freedom. A researcher’s ability to choose research topics that fit the funding opportunities is a credit to his or her skills. And if one believes strongly in one topic which is not funded nationally, one should apply for international grants.

In summary, we conclude that some of the issues that typically arise about infringements of academic freedom can be identified as longer-standing, more general problems. For example, distortions in the research funding system or the performance appraisal system, inconsistencies in how academics deal with political issues in the classroom have been valid problems for a long time in Hungary. Other challenges, however, are clearly linked to the reforms in the academic sector over the last ten years. For instance, increased dependence, difficult access to the research field, or the extreme politicization of certain topics, are problems that significantly impact the freedom of teaching and research in certain areas, primarily by discouraging researchers from engaging with them.

7.

Exchange and Dissemination of Academic Knowledge

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The Figyelo, a pro-government business magazine, first listed “academics supporting Soros networks” (Figyelo 2018a), and later some of the researchers of the Center for Social Sciences of the Hungarian Academy of Sciences were listed with their photographs (Figyelo 2018b). In the latter case, researchers were accused of having published very few scientific papers in recent years and of having a strongly ideology-driven research field, “with a strikingly popular focus on gender and homosexuality”.

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In general, publishing in academic or other journals is not restricted. There are no restrictions to academic publishing, and international publications highly critical of the government can often be recognized and rewarded by institutional management. Scientific resources (journals, databases) which are important to conduct research are generally accessible, and there are no restrictions on participation in scientific conferences. However, there have been recurrent problems organizing conferences or appearing as an expert in public discourse, which points to systemic risks and weaknesses.

7.1. Dependencies in sharing of research results

In some research fields (e.g., sociology, law) and employment relations (i.e., when academics are public servants/civil servants at the same time), the more direct the academic’s dependence on the government, the less academic freedom can be exercised. For example, one interviewee worked as a researcher in a back office of a government agency, where the texts of her academic publications were regularly modified, refined and adapted to the government narrative (I19). Several interviewees also mentioned that their colleagues who had a primary job in a directly supervised area of the state (e.g., courts) and were only employed at the university part-time (as PhD student or as a lecturer), have to obtain prior permission from their main employer for their conference presentations and publications (I22, I23, I27, I30). For this reason, it is also common for them to explicitly request for their main employer not to appear on the publication, but only the higher education institution. There have also been few reports of employers trying to prevent the publication of an accepted academic paper (I22), and in other cases of pressure from ministries to remove a publication from the website in the context of a government-funded project (I19).

7.2. Controlling expert opinions

It can lead to many conflicts if an academic wants to speak as an expert in a public arena on topics which are given a prominent place in the political discourse. Researchers who do not agree with the government narrative

are sometimes discredited through public smear campaigns, where they are accused of political or ideological bias. Researchers who are silent in the public arena, who have no political involvement, and who only work on a particular topic, may also be victims of smear campaigns.

One of the first such cases in the last decade was the so-called “philosopher case” in 2011 (Farkas 2011; Pindroch 2011), in which six philosophers labelled as liberals were accused of spending grant money improperly. Several pro-government journals discussed the case, charges were brought, but ultimately no one was convicted. The Board of the Hungarian Philosophical Society considered the press campaign against philosophers to be an act of persecution and politically motivated, and condemned the false way the press presented the issue (MFT 2011; see also Vari 2011).

The most spectacular examples of such smear campaigns were the so-called Figyelo-lists. The Figyelo, a pro-government business magazine, first listed “academics supporting Soros networks” (Figyelo 2018a), and later some of the researchers of the Center for Social Sciences of the Hungarian Academy of Sciences were listed with their photographs (Figyelo 2018b). In the latter case, researchers were accused of having published very few scientific papers in recent years and of having a strongly ideology-driven research field, “with a strikingly popular focus on gender and homosexuality”. Rather than producing work that follows real socio-political processes, proposes solutions to the demographic crisis or promotes childbearing, “researchers are mostly preoccupied with the social situation of sexual minorities, gender studies and inclusion, based on the narrative of the liberal worldview” (Figyelo 2018b).

Another difficulty of academics’ participation in public discourses as experts arises when it is being delivered through the government-controlled or influenced media, which distorts and reinterprets the researcher’s discourse, bending it to its own, government-approved, narratives. This is what happened, for example, to a well-known migration researcher whose words were summarized by a journalist in an article as “immigrants coming to us from almost anywhere are better than the native population. In many cases, Africans, Asians and Middle Easterners coming here are better educated

than Hungarians” (Micskei 2015). The researcher objected to the wording put in his mouth (HVG 2018c). However, subsequent news reports have reported that the researcher (also chairman of the supervisory board of an NGO working with refugees) believes that “any migrant is better than the Hungarian population” (Origo 2018). Later, the governing party commented “the Soros organizations want to see migrants in Hungary instead of Hungarians” (Mandiner 2018), and the prime minister himself referred to the researcher as a “well-developed Soros activist” who “experimented with the transformation of Europe” and “found it interesting to say that people who are better than the Hungarian population come to us from almost everywhere” (Orban 2018). Later, the researcher’s photograph and the reinterpreted phrase attributed to him were included in propaganda videos by the ruling party, and appeared in the pro-government press.

All of these cases have received a lot of publicity in the national press, and this has acted as a deterrent for some researchers who want to avoid the media attention and stress that this brings. These campaigns discouraged researchers from giving their expert opinions in the public arena. We have had interviewees who are unwilling to talk to the press, preferring to direct them towards their publications and their own press releases (I11, I15).

Others are still willing to speak out in public, but that requires courage. Some reported that their or their colleagues’ choice of research topic was based on an explicit fear of political or press repercussions (I2, I4, I5, I13, I16, I27, I29, I30). Others reported being attacked by the press, but that they did not change their research topic or attitude toward public speaking (I15, I29). At the institutional level, the question arises as to whether the public speaking of researchers poses a risk to the institution, and whether there is retribution for the institution. Many universities formally regulate these situations through press disclosure policies (rarely accompanied by direct sanctions), but researchers also have a tendency towards self-censorship, stemming from the fear that speaking out could negatively affect their institution.

Following these circumstances, a new practice has emerged – the media is often asked not to name the

scholar's institution, or researchers themselves deliberately do not mention the name of their institutions in an opinion paper. This protects the institution, but reduces the discourse-shaping role of the academics, as the weight of institutional prestige is not asserted. Researchers are more easily marginalized. However, this is not necessarily the case for the rectors or heads of the institution, several of whom have often featured in government communications as experts, each time with the name of the institution.

Another strategy for academics to protect the reputation of the university is to make expert statements on behalf of an NGO. Several researchers have such dual commitments, and their expert statements are never made on behalf of the university. These researchers also confirmed that they had never experienced a disadvantage in their university career because of public speaking.

In extreme cases, articulating expert opinion against the government's mainstream could result in the termination of employment. For example, two staff members of a government-funded research institute representing the ruling party's narrative of national history have reportedly been dismissed after they expressed critical views on a pro-government portal about an animated historical film published by the institute. The staff members, who have degrees in archaeology and history, required an "accurate, scientifically based depiction" of the characters' equipment in the film (Kolozsi 2021). The dismissal was followed by a protest by the Association of Hungarian Archaeologists, which also stood up for freedom of scientific opinion (Magyar Regesz Szovetseg 2021).

7.3. Organizing conferences, cooperation with others

There are some worrying testimonies in the interviews about the exchange of knowledge being disrupted. Some interviewees reported that the organization of a conference with certain NGOs that are depicted negatively in the government narrative had been questioned, or at least the question had been raised from time to time, by people working in various government departments. This eventually led to the rejection of subsequent requests to avoid potential conflict. There have also been examples of people cancelling their conference attendance because of the participation of such an organization, fearing reprisals later (I14, I23, I25, I28, I30).

In a few cases, speakers were discouraged by conference organizers. For example, in 2018, the Deputy Secretary-General of the Hungarian Academy of Sciences banned two internationally renowned researchers from giving conference presentations during the "Celebration of Science" event due to the "political implications" of the topics of their presentations (Qubit 2018; HVG 2018d). The incident occurred while negotiations between the government and the Academy on reorganizing the research institute network were still ongoing. This may have reinforced the Academy's tendency for self-censorship.

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On the whole, we can see that the publication of scientific results is neither prohibited nor hindered by the state in an institutionalized way. Publications in international journals and conferences are expected and encouraged. However, individual attacks, which do occur, on scholars' rights, privacy, family and livelihood, create a discouraging climate. This can, and in many cases does, lead academic community members to impose self-censure, be silent or change their behavior.

8.

Efforts to Promote and Protect Academic Freedom

It is clear that the higher education and independent research institutions and the legal environment cannot sufficiently protect academic freedom. Although the reputation of the academic sector is high, there is no particular protesting of restrictions on academic freedom and institutional autonomy. Only in the case of spectacular interventions at the institutional level (ELKH, SZFE) have there been significant demonstrations. Interference in academic freedom still generates some solidarity in the academic community, but some respondents say it is weakening (I22). We have seen this in the case of the restructuring of the academic research network, the gender studies program or the SZFE. Petitions, however, are regular. They create a feeling of solidarity, but besides that, their effect is questionable.

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Only in the case of spectacular interventions at the institutional level (ELKH, SZFE) have there been significant demonstrations.

Interference in academic freedom still generates some solidarity in the academic community, but some respondents say it is weakening.

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In higher education discourses, the issue of institutional autonomy is the most prominent, while issues of academic freedom do not receive much attention. In our opinion, a key issue for academic freedom is to what extent views and opinions can be articulated and expressed. Three difficulties arise here.

First, the leaders of the institutions are less willing, able, or daring to bring together and represent views on academic freedom and institutional autonomy, following the growing dependence of the institutions on external actors. Heads of institutions feel responsible for the institution and their staff, so they try to reach an agreement and avoid any cause for retaliation. This, in turn, may be counterproductive, because lack of resistance might encourage more restrictive conditions. According to some interviewees (i.e., I14, I15, I22), institutional leaders expressed fears that, if they promoted open solidarity statements published by academics, support for the institution would be reduced or they might face other negative consequences. One respondent, perceived the lack of support of his organization in previous years as the consequence of signing a solidarity statement (I27).

Second, changes in governance systems created more and more opportunities for leadership positions to be filled not by representatives of the ac-

ademic community but by leaders appointed by external actors (the government or the board of trustees). These leaders do not necessarily see their role as integrating and representing the points of view of the academic community. Without leadership, it is also difficult for views to emerge and be expressed in an organized way because no one can legitimately represent the academic community. In many cases, dissent dies out internally because it cannot be expressed in a critical mass way. This also shows that the less the institution's leaders represent the academic community's views, the more institutional autonomy and academic freedom can come into conflict. Indeed, suppose the interests of the institution are expressed by a management that is not accountable to the academic community but has broad decision-making powers. In such a case, it is easy for the management to impose practices that violate academic freedom in the name of institutional autonomy.

Third, the institutions are divided internally, making it difficult for the institutional leadership to formulate and represent a common position. Some are disinterested in the changes. Others are deterred by the fact that public activism and press attacks are alien to the role of academics. Many are willing to give up guarantees in exchange for better financial conditions. And some groups, such as students, can easily be made interested in change. Promises of increased financial support often reinforce internal divisions, especially if people are badly paid. Academic disciplines are also very differently affected by the different reforms, and so lead to differing opinions.

Overall, it is no coincidence that the greatest resistance to the changes was seen in the SZFE. The small size of the university, the strong teacher–student relations and the disciplinary homogeneity all played a role in ensuring that the interests of the academic community could be clearly articulated and expressed in action. In larger institutions, it is much harder to achieve such resistance.

Individual strategies to defend academic freedom emerged in several interviews. In all cases, the most important element is seen to be a reduction in dependency and vulnerability. Increasing competition in universities, research output, and in particular internationally significant research output, would provide a resource and bargaining power for the academic that can protect against attack, even if the research topic is controversial.

Another strategy is to move in the civil sector alongside the university. On the one hand, this makes the university less vulnerable to attack, and, on the other hand, it is also possible to circumvent administrative barriers (such as public procurement), which makes research difficult. Some interviewees stress the importance of not speaking about deterrence because it generates fear and self-censorship (I14, I15). In addition, violations of academic freedom must always be protested against. To this end, some people continue their activities for no other reason than to express critical opinions or simply to continue teaching and researching on subjects that may lead them to come under attack (I2, I14, I15, I29).

9.

Conclusions: Weakening Guarantees of Academic Freedom in Hungary

9.1. The current state of academic freedom

The Hungarian academic sector has undergone several large-scale reforms over the past decade. All of them have affected the governance and decision making of organizations, and subsequently academic freedom. As the government initiated the changes, the question of infringements on academic freedom can be seen in the context of the role of the state and government, as confirmed by the interviewees' discourses. The role of ideological movements that emerge independently of the state (which are important actors in shaping academic freedom in Western Europe or the US, for example) or the impact of business actors was less important and thus received less attention in our interviews.

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Occasional government acts infringing academic freedom have a special significance because they shed light on the weakness of the regulation, that is, the law offers no meaningful protection against such acts by the government.

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The main focus of this study was to identify to what extent the reformed higher education system is capable of protecting and enforcing academic freedom. This question has been examined at three levels: at the level of legal guarantees, at the level of the autonomy of academic communities/institutions, and in everyday practice.

On the level of regulations, some elements of academic freedom – freedom to teach and freedom of research – are guaranteed by the Fundamental Law, but these are not of equal strength (freedom to teach could be restricted by the higher education act). The range of holders of these rights is mixed (they could be individual academics, the academic community or higher education institutions). The wording of the law is contradictory, often subject to divergent interpretations, leading to legal uncertainty. In such circumstances, occasional government acts infringing academic freedom have a special significance because they shed light on the weakness of the regulation, that is, the law offers no meaningful protection against such acts by the government.

The question of institutional autonomy and self-governance

is a critical condition for academic freedom. In this respect, the reforms of the last decade have invariably weakened the possibility of self-governance, citing the need for more efficient and effective management and use of resources. The governance of the organizations that provide the framework for the functioning of academic communities has been increasingly dominated by bodies and managers with a decisive influence from government, and the influence of those elected by academic stakeholders has declined. This is not necessarily a violation of academic freedom, but the procedural and organizational guarantees that had ensured it are no longer in place. After the reforms, academic freedom is more dependent on the decisions (whim) of actors who are not accountable to the academic community, whose decisions are not transparent to the academic community or lack the necessary guarantees. Therefore, the problem at the systemic level is not the systematic restriction of academic freedom but the inability of the current legal environment to prevent its restriction. The decision-makers (the state) are not prevented from violating academic freedom because of the guarantees. If they do not violate academic freedom it is only because of their own interests and political considerations. This is why cases where the government has openly interfered in areas affecting academic freedom for political reasons (e.g. gender studies, SZFE) are particularly important because they are warning signs that show that the state can infringe academic freedom in the existing legal environment if it wants to, without any consequences. Therefore, a regulatory and governance environment has been created in the academic sphere that allows decision-makers to take legitimate measures, even those that restrict academic freedom. This increases the dependency and vulnerability of individual researchers and institutions, and increases the risk of infringement of academic freedom.

At the level of practice, we see that academic freedom is typically present in Hungary today. We can agree with the view that there are no direct restrictions on the freedom of teaching and research, nor are there any visible institutionalized governmental or bureaucratic hindrance. Researchers rarely encounter direct and overt restrictions on their teaching and research. The key findings on the elements of academic freedom are as follows.

- The right to teach is fundamentally present. Perceived constraints at the individual level (for example, the extent to which academics are forced to conform to study program requirements) are seen as legitimate. However, the issues pushed to the fore by the government are becoming so divisive in public policy discourse, that this has discouraged many academics from addressing them in the classroom.
- The right to research is fundamentally present. The main limitation is access to research data, especially in areas controlled by the government.
- The right to disseminate research meets with no physical restrictions, but there is a strong disincentive to speak in public as an expert critical of the government. However, there are no direct sanctions, for example, on academic careers. Dissemination may be more restricted in specific employment relationships related to certain disciplines, where clear censorship has been reported (I19, I22).
- The right to shape the academic community is the most difficult area to assess because much depends on the relations within the institution. This right is not formally limited, but the possibility of having a real influence is weakened as the weight of elected bodies decreases and the top-down management increases. Management can shape the discourses within the institution more strongly than before in the new governance structure, but this is only an increased possibility and will not necessarily happen.

As indicated in the introduction to the methodology, it is not the number of infringements that is important, but their direction and recurring patterns. Hoffmann and Kinselbach (2018) provide a detailed overview of possible forms of violations of academic freedom. Based on the interview and questionnaire experience, it can be concluded that relatively few types of violations occur in Hungary, and these belong to the soft factors. Self-censorship was one of the most frequently recurring elements in the interviews, reported by more than one-third of the interviewees (I5, I6, I13, I16, I19, I20, I25, I26, I27, I28, I30). Moreover, self-censorship can have high latency, and the actors may not be aware of its presence. Nor is it possible to determine what

considerations guided an actor's decision (institution, researcher): professional considerations or fear of possible negative consequences. These factors make it difficult to measure the extent of self-censorship, but it is undeniable that the phenomenon exists and is associated with the effects of government policy in some disciplinary fields. Dependency, vulnerability, deliberate public discrediting and the aggressive nature of public discourse act as a deterrent and increase the tendency towards self-censorship, which undermines all four elements of academic freedom. The transformation of the public academic sector has created more and more opportunities for such dependencies, in particular by eliminating the elements of guarantee. This is considered a systemic weakness and a future risk.

9.2. How can the situation of academic freedom in Hungary be improved?

The most obvious step towards improving the situation of academic freedom in Hungary would be to change the legislative environment. In other words, to clarify the content of academic freedom, its holders and its guarantees, and to fully enshrine it at the constitutional level. This would avoid the possibility of legal restrictions. In addition, a support system would need to be put in place, providing a framework to allow structural, organizational, governance, management and control systems and considerations to be freely untangled within the framework. It would also provide clarity on rights and obligations and room for maneuver for all stakeholders. The system of guarantee rules should be extended to all elements of academic freedom, with the individual and his or her community as the holder, and institutional autonomy declared in matters of academic freedom, with clear rules of responsibility.

The self-governance of academic communities needs to be strengthened. We consider it legitimate to involve external stakeholders in the functioning of academic communities, but this should not be exclusive. Communities must have a greater say in selecting the actors who decide their fate and make key decisions. The functioning of decision-making bodies and their decision-making processes must be made transparent to academic communities. The accountability and responsibility of decision-makers to the academic communities

should be strengthened, both culturally and legally.

1. For higher education institutions undergoing model change
 - a. the public interest trusts should be deprived of the right to withdraw the powers of the senate (teaching, research content, methodology, appointment of academic directors and research professors, design of courses, content of admission of students, study and examination),
 - b. the functioning of the boards of trustees (decisions, regulations) and their financial relations with the state (financing agreement) must be made public and transparent,
 - c. the selection of the members of the board of trustees should be based on clear, fixed criteria and procedures, with the participation of the senate,
 - d. the institution of hereditary membership in the board of trustees should be abolished.
2. For ELKH
 - a. the composition of the governing board should be democratized, consisting of a majority of persons elected by the representatives of the research institutions
 - b. the transparency of staffing, research funding and financing decisions should be strengthened.
3. For buffer organizations like the HAC and HRC
 - a. the autonomy and weight in sectoral level decision-making should be restored
 - b. their influence over the establishment and launching of study programs and their training and outcome requirements should be increased substantially
 - c. only the register of the study programs should be kept within the competence of the State.

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- Act CCIV of 2011 on national higher education: <https://net.jogtar.hu/jogszabaly?docid=a1100204.tv>
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Appendix 1. Elements of academic freedom in the Acts on Higher Education

	1993	2005	2011
	<p>Preamble ...The need to ensure the human rights guaranteed in the Constitution, the need to accord with the Magna Charta of the European universities, and the need for the creation of better conditions for social and national life create the basis for the first independent legal regulation of Hungarian higher education.</p> <p>In the interests of the above, the Act regulates the system, operation, and autonomy of higher education institutions, as well as the role played by the state in higher education. By means of its provisions, it ensures freedom of teaching, freedom of study, and freedom to cultivate arts and sciences alike.</p>	<p>Preamble ... – by preserving traditions and the intellectual values set forth in the Magna Charta of the European Universities –... to continuously and increasingly achieve within the operation of the education system and individual institutions the freedom to learn, teach, and do scientific research ...</p>	<p>Preamble ... in order to intellectually and spiritually revive the nation...</p>
	<p>Section 32 (1) Higher education institutions shall ensure freedom of teaching, freedom of scientific research, freedom of artistic creative activity, and freedom of study for teaching staff, scientific researchers and students.</p>		
Freedom of teaching	<p>Section 32 (2) a) to decide on teaching materials and on the choice of teaching and training methods employed, in accordance with qualification requirements, the prescriptions of the curriculum, and the division of work established in the organisational unit;</p>	<p>Section 95 (1) b) define the syllabus within the framework of the program, select the educational and training methods to be applied</p>	<p>Section 35 (1) ...set the syllabus within the framework of the educational program and nominate the educational and methodological methods/techniques they intend to apply...</p>
		<p>Section 95 (1) c) provide instruction in compliance with their personal convictions and value systems, without forcing students to accept such convictions and value systems or coercing them into the acceptance thereof</p>	<p>Section 35 (1) Individuals employed in lecturer positions shall be entitled to the right to perform educational activities in accordance with their world view, ideology and values without encouraging or coercing students to accept these...</p>
	<p>Section 32 (2) b) to develop educational programs in their subjects and to develop teaching materials;</p>		
	<p>Section 32 (2) c) to assess the academic work and performance of students;</p>	<p>Section 95 (1) d) select students in line with the provisions of the statutes as well as supervise and evaluate their work,</p>	
	<p>Section 32 (2) d) to select students, in line with the conditions laid down in the Regulations of the institution.</p>	<p>Section 95 (1) d) select students in line with the provisions of the statutes as well as supervise and evaluate their work,</p>	
Obligations of teaching	<p>Section 35 (1) in accordance with the stipulations of the Regulations, a member of the teaching staff and scientific researcher of a higher education institution has an obligation to a) participate in the teaching work of the institution, specifically by conducting activities (lectures, seminars, practicals, etc.), and in conducting examinations;</p>	<p>Section 95 (5) a) mediate knowledge in an objective manner and exhibit a multi-perspective approach,</p>	<p>Section 35 (2) The individual assuming educational activities shall be obliged to convey knowledge and information in an objective and manifold manner...</p>
		<p>Section 95 (5) c) regularly inform students on matters of their concern, provide serviceable answers to their questions,</p>	
			<p>Section 35 (2) ... undertake evaluation in compliance with the approved curriculum...</p>
		<p>Section 95 (5) b) consider individual abilities, gifts, and disabilities of students in the course of tutorial activity,</p>	<p>Section 35 (2) ... respect the human dignity and rights of the student...</p>
		<p>Section 95 (5) d) respect the dignity and rights of the student.</p>	<p>Section 35 (2) ...take account of the individual skills and abilities, talent and disabilities of students during the provision of educational activities.</p>
Freedom of research		<p>Section 95 (1) e) have access to knowledge relevant to their work, f) enhance their professional know-how and knowledge through continuing education and training, participate in pedagogical pilot projects and research,</p>	
	<p>Section 33 (1) a) to submit applications which are scientific (artistic) in purpose;</p>	<p>Section 95 (1) g) submit applications for scientific or art competitions,</p>	
	<p>Section 33 (1) b) to conduct research on scientific themes chosen by them, in addition to the scientific research tasks deriving from tasks relating to their work duties;</p>	<p>Section 95 (1) h) conduct research on the subject of their choice in addition to research tasks specific to their position,</p>	
Freedom to disseminate knowledge	<p>Section 33 (1) c) to publish scientific research and artistic results.</p>	<p>Section 95 (1) i) publish their research results and artistic achievements.</p>	
Freedom of shaping the academic community	<p>Section 34 (1) a) make a proposal on any issue connected with the life of the higher education institution and to receive a serious answer related to it;</p>	<p>Section 82 (1) All employees of the higher education institution shall have the right to a) make a proposal as to the operation of the higher education institution, and receive a sufficient answer within thirty days from the submission of such proposal,</p>	
	<p>Section 34 (1) b) to take part, either directly or through a representative, in a way laid down in the institution's Regulations, in decision-making which affect their interests, and in the leading bodies of the institution; c) to elect and to be elected to the bodies operating in the higher education institution</p>	<p>Section 82 (1) b) take part in the election of bodies of the higher education institution in line with the stipulations of this Act and the statutes of the higher education institution, as well as in the work of the given body provided he/she has been elected as a member thereof,</p>	

Appendix 2.

Interview Guide for Interviewing Experts in Higher Education

1. Brief description of the research background, how the interview will be used, data protection, anonymity
2. How do you understand the concept of academic freedom? What does it mean to you?
3. Degree of academic freedom today: To what extent is academic freedom effective in Hungarian higher education/academia today?
 - a. How much freedom does an academic have today to choose his/her research topic and teaching content/method? How much freedom do they have in the way they publish their results or speak as an expert?
4. Changes over time and influencing factors: How do you think academic freedom in Hungary has changed over time? Why?
 - a. How do you think academic freedom has been affected by the following?
 - i. Changes in the governance of universities/research institutes (e.g. chancellor system, model change)
 - ii. Changes in the employment framework for academics/researchers (abolition of public servant status)
 - iii. Changes in the funding system for research/higher education
 - iv. The emergence of COVID, digitalization
 - b. What can guarantee academic freedom? How strong or weak are these guarantees?
5. Spatial/institutional differences: Are there differences in the level of academic freedom between institutions? (If so, where is it stronger and where weaker? What factors are influencing this?)
6. Are there disciplinary differences in academic freedom?
7. Taboos: do you think there are taboos in Hungary today that are not worth/not free to research? If so, what are these taboos and why are they taboos?
 - a. Is there an external pressure to conform in Hungary? To what extent is the public/professional communication of results determined by conformity?
 - b. Self-censorship: have you encountered (in your own practice or elsewhere) the phenomenon of self-censorship? What triggered this?
8. Cases of external censorship: Have you encountered (in your own practice or elsewhere) a phenomenon where a researcher's choice of topic, the content of the teaching, the way in which the results are communicated, have been shaped by external (not based on professional consensus) constraints and not by the professional convictions of the academic? What was the reason for this?
9. How should academic freedom be strengthened in Hungary?
10. Who else should be interviewed on the issue? (Either because they are knowledgeable or because they have a story worth telling?)
11. Do you have any additional remarks, comments or questions?

Appendix 3.

Interview Guide for Storyteller Interviews

1. Brief description of the research background, how the interview will be used, data protection, anonymity
2. Please briefly describe your professional career and background. What field of teaching, research are you involved in?
3. How do you understand the concept of academic freedom? What does it mean to you?
4. How much influence do you have on academic freedom today? Why so much?
 - a. How much freedom do you have to choose your research topic and teaching content/method? How much freedom do you have in publishing your results or speaking as an expert?
 - b. To what extent can you influence the conditions and rules of teaching and research?
5. What are the legitimate constraints of academic freedom, in your opinion?
6. Have you encountered any infringements of academic freedom that you did not consider legitimate? If so, could you describe it?
 - a. Who was the source of the offensive behavior?
 - b. What was the form of infringement: request, instruction, expectation, indirect inducement, threat, blackmail?
 - c. Was there any precedent to the incident?
 - d. Was anyone else (colleague, student, supervisor) aware of the incident? What was their reaction, their opinion?
7. Taboos: do you think there are taboos in Hungary today that are not worth/not free to research? If so, what are these taboos and why are they taboos?
 - a. Is there an external pressure to conform in Hungary? To what extent is the public/professional communication of results determined by conformity?
 - b. Self-censorship: have you encountered (in your own practice or elsewhere) the phenomenon of self-censorship? What triggered this?
8. What specifically helps and protects academic freedom in Hungary? How should academic freedom be strengthened?
9. Who else should be interviewed on the issue? (Either because they are knowledgeable or because they have a story worth telling?)

