Summary

This paper sets out the main dimensions and the scope of academic freedom as a fundamental right. It also aims to indicate how European and national policymakers and legislators can and should take measures to effectively protect, facilitate, strengthen and optimise academic freedom.

The paper is based on the assumption that academic freedom is of paramount importance for current and future research as well as for teaching at universities, in Europe and worldwide. Academic freedom is not only seen as a goal in itself. It is important especially since it makes it possible for universities to serve the common good of society through searching for and disseminating knowledge and understanding, and through fostering independent thinking and expression in academic staff and students.

Academic freedom can be considered to comprise the following three aspects:

a. Far-reaching individual rights to expressive freedoms for members of the academic community (both staff and students) mainly as free enquirers, including the freedom to study, the freedom to teach, the freedom of research and information, the freedom of expression and publication (including the 'right to err'), and the right to undertake professional activities outside of academic employment;

b. Collective or institutional autonomy for the academy in general and/or subsections thereof (faculties, research units, etc.). Said autonomy implies that departments, faculties and universities as a whole have the right (and obligation) to preserve and promote the principles of academic freedom in the conduct of their internal and external affairs;

c. An obligation for the public authorities to respect and protect academic freedom and to take measures in order to ensure an effective enjoyment of this right and to promote it.

These three dimensions of academic freedom are not mutually exclusive, but on the contrary they mutually reinforce one another. In case of conflict between the individual and the institutional rights, a careful balancing of rights and interests may be needed, in which special consideration is to be given to the former aspects. Institutional autonomy should not be used by higher education institutions as a *pretext* to limit the individual rights of higher-education teaching personnel. If restrictions on individual academic freedom are unavoidable, they should not go any further than necessary in order to achieve legitimate institutional academic aims, with means being proportionate to these aims. The state's role is to guarantee academic freedom: freedom of any kind is not a spontaneous state of affairs, and in order for academic freedom to exist in any meaningful sense it must be respected, protected, ensured and promoted by the public authorities. A failure to fulfil these obligations amounts to a violation of academic freedom.