

ACADEMIC FREEDOM OF EXPRESSION UNDER ARTICLE 10 ECHR: TOWARDS A FUNCTIONAL-EPISTEMIC FRAMEWORK

JUDr. Sára Kiššová, PhD.
Assistant Professor
Comenius University Bratislava
Faculty of Law
Šafárikovo nám. č. 6
810 00 Bratislava, Slovakia
sara.kissova@flaw.uniba.sk
ORCID: 0000-0003-2834-8853

Mgr. Kiana Rostami
PhD. Student
Comenius University Bratislava
Faculty of Law
Šafárikovo nám. č. 6
810 00 Bratislava, Slovakia
rostami2@uniba.sk
ORCID: 0009-0006-5738-5636

Abstract. *The article examines academic freedom of expression under Article 10 ECHR in the context of the contemporary digital public sphere. Although the European Court of Human Rights has repeatedly recognised the importance of academic speech within democratic society, its jurisprudence lacks a coherent framework capable of identifying when expression qualifies as “academic” and why it may warrant enhanced protection. The article argues that academic freedom of expression should be understood as a context-sensitive reinforcement of freedom of expression grounded in the epistemic function of academic activity. Combining reconstructive doctrinal analysis with normative conceptual inquiry, it develops a functional-epistemic framework structured around three dimensions: epistemic standing, truth-seeking orientation, and methodological grounding. Ultimately, the article proposes a more coherent approach to identifying the scope and limits of academic expression under Article 10 ECHR within the contemporary digital public sphere.*

Key words: *Academic freedom of expression; Article 10 ECHR; enhanced protection; digital public sphere.*

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1. INTRODUCTION

Academic freedom of expression constitutes one of the most unique, yet doctrinally unsettled dimensions of the right to freedom of expression within the European human rights system.¹ While Article 10 of the European Convention on Human Rights (ECHR/Convention) guarantees freedom of expression to everyone, including academics,² the specific contours, justification, and scope of academic expression remain insufficiently defined within the case law of the European Court of Human Rights (ECtHR/the Court).³ Traditionally, academic freedom has been understood as closely tied

¹ Eric Barendt, *Academic Freedom and the Law: A Comparative Study* (Oxford: Hart Publishing 2010) 1–20. Oliver Beaud, ‘Academic Freedom in France: A Concept Neglected and Liberties under Threat’ in Hannes Hofmeister, Ilaria De Gennaro and Rainer Lüfter (eds), *Academic Freedom in the European Context: Legal, Philosophical and Institutional Perspectives* (Cham: Palgrave Macmillan 2022) 205–241.

² Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) art 10(1).

³ Mustafa Erdoğan and Others v Turkey (ECtHR, 27 May 2014) application nos 346/04 and 39779/04.

to the institutional environment of universities, where it protects teaching, research, and scholarly publication.⁴ In this classical understanding, academic freedom is primarily a professional freedom of members of the academic community, enabling them to pursue research and disseminate knowledge without undue institutional or even political interference.⁵ Such a model, however, presupposes a relatively stable institutional framework in which academic discourse remains largely confined to universities and traditional scholarly fora. This assumption has become increasingly unsustainable in light of the structural transformation of the contemporary public sphere. Academic discourse today increasingly unfolds within the digital public sphere, including online platforms, social media, blogs, podcasts, and mass media appearances, where scholarly communication interacts directly with broader public and political debate. As recent scholarship on the digital public sphere demonstrates, contemporary public deliberation is no longer mediated primarily through traditional institutional actors, but through fragmented and highly dynamic communicative environments characterised by rapid dissemination of information, competing epistemic authorities, and blurred distinctions between expertise, opinion, and political advocacy.⁶

This transformation raises several fundamental questions. Does an academic exercise academic freedom of expression beyond the institutional settings of a university? If so, under what conditions should such expression be afforded protection? And, in the contemporary social environment, is there a case for recognizing an enhanced level of protection for academic freedom of expression? The ECtHR's case law provides only partial answers to these questions. Although it consistently emphasizes that freedom of expression constitutes "one of the essential foundations of a democratic society"⁷ it has not developed a coherent doctrinal framework specifically addressing academic expression nor academic expression in the digital public sphere.⁸ Instead, academic speech is generally assessed through the ordinary principles of Article 10 ECHR, which may result in fragmentation and conceptual uncertainty.⁹ At the same time, the Court has recognized that certain categories of speakers, notably journalists, benefit from enhanced protection due to their role as "*public watchdogs*" in a democratic society.¹⁰ This raises the further question whether academics, who also contribute to the production and dissemination of knowledge relevant to public debate, may be conceptually situated within a similar enhanced protection framework. Hence, the Court's case law still lacks a coherent doctrinal framework for assessing academic freedom of expression under Article 10 ECHR.

⁴ UNESCO, 'Recommendation Concerning the Status of Higher-Education Teaching Personnel' <<https://www.unesco.org/en/legal-affairs/recommendation-concerning-status-higher-education-teaching-personnel>>; the American Association of University Professors, '1940 Statement of Principles on Academic Freedom and Tenure.' <<https://www.aaup.org/sites/default/files/1940%20Statement.pdf>>. Livia Trellová and Branislav Balog, 'Akademická sloboda a akademická samospráva (ako vzájomne sa podmieňujúce faktory); (2022) 74 *Justičná revue* 313.

⁵ Barendt (n 1) 20; Michelle Moody-Adams, 'What's So Special about Academic Freedom' in Akeel Bilgrami and Jhonatan R Cole (eds), *Who's Afraid of Academic Freedom* (2015) 97–101; Robert Post, *Democracy, Expertise, and Academic Freedom: A First Amendment Jurisprudence for the Modern State* (New Haven: Yale University Press 2012) 1–12, 67–95.

⁶ Mark Murphy and Cristina Costa, 'The Digital Public Sphere, Universities and Intellectualising the Public' [2025] *Studies in Higher Education* 1 <<https://doi.org/10.1080/03075079.2025.2500694>>.

⁷ *Handyside v United Kingdom* (ECtHR, 7 December 1976) application no 5493/72, para. 49.

⁸ *Sorguç v Turkey*, (ECtHR, Strasbourg, 23 June 2009) no. 17089/03; *Kula v Turkey* (ECtHR, 19 June 2018) application no 20233/06; *Mustafa Erdoğan and Others v Turkey*.

⁹ *Hertel v Switzerland* (ECtHR, 25 August 1998) application no 59/1997/843/1049, paras. 46, 50.

¹⁰ *Lingens v Austria*, (ECtHR, 8 July 1986) application no 9815/82, para. 42; *ECtHR, Castells v Spain*, ECtHR, 23 April 1992) application no 11798/85, para. 43.

Although the Court has indeed repeatedly acknowledged the particular importance of academic speech in a democratic society,¹¹ it has not clearly articulated under what conditions expression qualifies as “academic”, nor how such classification should affect the intensity of protection afforded under Article 10 ECHR. This doctrinal uncertainty has become increasingly problematic in the contemporary digital public sphere, where academic, political, and private forms of expression frequently overlap and where scholarly communication increasingly occurs outside traditional institutional settings.¹² Existing approaches based primarily on formal academic status, institutional context, or general freedom of expression principles therefore provide only limited guidance for assessing academic expression under contemporary conditions. The Court had a significant opportunity to address this conceptual uncertainty in *Mustafa Erdoğan and Others v. Turkey*. While the judgment recognised the importance of academic freedom, the Court ultimately refrained from formulating a distinct legal concept or structured analytical framework capable of identifying academic expression and explaining why it may warrant heightened protection beyond the ordinary assumptions of Article 10 ECHR jurisprudence. Although the joint concurring opinion of Judges Sajó, Vučinić and Kūris outlined several criteria capable of identifying an “academic element” within expression, this reasoning has not subsequently been systematically incorporated into the Court’s later jurisprudence. In particular, subsequent cases such as *Ayuso Torres v Spain* continued to protect academic expression in a largely contextual and intuitive manner, without developing a coherent doctrinal framework capable of distinguishing academic expression from ordinary public commentary under contemporary conditions.

The absence of such a framework is not merely a problem of conceptual neatness. It has practical consequences for the operation of Article 10 ECHR. First, it creates a classification problem: without identifiable criteria, it remains uncertain when expression should be treated as ordinary public speech and when its academic character should acquire independent weight in the Article 10 analysis. Second, this uncertainty affects the intensity of judicial review. If academic expression may warrant enhanced protection, the absence of criteria capable of identifying such expression makes it difficult to determine when stricter scrutiny of an interference, including a narrower margin of appreciation, should apply. Third, the lack of a coherent framework reduces predictability for domestic courts, universities, and academics themselves, particularly in the context of extramural and digital communication where academic, political, and private forms of expression increasingly overlap. The problem addressed in this article is therefore not the absence of an exhaustive definition as such, but the absence of sufficiently structured criteria capable of guiding the identification and subsequent protection of academic expression under Article 10 ECHR.

It is precisely this doctrinal gap that the present article seeks to address. This article argues that contemporary academic freedom of expression should be understood as a context-sensitive reinforcement of freedom of expression under Article 10 ECHR, grounded in the epistemic function of academic activity. Methodologically, the article adopts a reconstructive doctrinal approach combined with normative conceptual analysis. It does not seek merely to describe the existing case law of the ECtHR, but to reconstruct the implicit doctrinal logic underlying the Court’s treatment of academic

¹¹ *Ayuso Torres v Spain* (ECtHR, 8 November 2022) application no 74729/17, paras. 56–59; *Sorguç v Turkey*, paras. 35–41; *Mustafa Erdoğan and Others v Turkey*, paras. 40–46.

¹² Atte Oksanen and others, ‘Hate and Harassment in Academia: The Rising Concern of the Online Environment’ (2022) 84 *Higher Education* 541 <<https://doi.org/10.1007/s10734-021-00787-4>>; Louis Menand, ‘Academic Freedom Under Fire’ (The New Yorker, 29 April 2024) <<https://www.newyorker.com/magazine/2024/05/06/academic-freedom-under-fire>>.

expression under Article 10 ECHR. This reconstruction is based primarily on the Court's academic freedom jurisprudence, with particular attention to *Mustafa Erdoğan and Others v Turkey*, and especially to the conceptual criteria developed in the joint concurring opinion. The doctrinal analysis is then supplemented by a normative inquiry into the epistemic foundations of academic freedom. On that basis, the article seeks to develop normative and doctrinal considerations as to how a coherent framework for assessing whether a particular form of expression qualifies as academic expression should operate, and under what conditions such expression may warrant enhanced protection under Article 10 ECHR. More specifically, it seeks to clarify whether academic expression should be protected primarily by reference to status of a person and place of speech or revisited combination thereof in the contemporary digital public sphere.¹³

2. WHO IS AN ACADEMIC AND WHAT IS ACADEMIC FREEDOM OF EXPRESSION ?

Freedom of expression under Article 10 ECHR is formulated in universal terms and applies to all individuals without distinction.¹⁴ Academics, as rights holders, therefore fall within its scope. The central issue of this article is not whether academics enjoy freedom of expression, but what constitutes academic expression in today's digital environment and whether academic expression warrants a distinct or enhanced form of protection.¹⁵

Traditionally, the concept of *academic freedom of expression* has been understood in formal and institutional terms, referring primarily to individuals employed within universities or research institutions, and framing their expression mainly in relation to teaching and research.¹⁶ However, this formal approach is increasingly inadequate as some academic activity is no longer confined only to institutional settings. Academics often and routinely participate outside the institutional academia – e.g., in public discourse through media appearances, public interventions, and digital platforms.¹⁷ The ECtHR has *implicitly* acknowledged this shift by extending protection to academic speech occurring outside universities, especially where such speech falls within the speaker's field of expertise.¹⁸ This development suggests that the definition of an academic cannot be reduced to formal institutional affiliation. Rather, it must also reflect the functional role of individuals engaged in the production and dissemination of knowledge.¹⁹

¹³ Jogchum Vrieling and others, 'Challenges to Academic Freedom as a Fundamental Right' (LERU 2023) Advice Paper 31 20–21 <https://www.leru.org/files/Publications/2023.04.27_Challenges-to-academic-freedom-as-a-fundamental-right.pdf> accessed 20 March 2026.

¹⁴ William Schabas, *The European Convention on Human Rights: A Commentary* (First paperback edition, Oxford University Press 2017) 451–452.

¹⁵ Barendt (n 1) 1–20.

¹⁶ UNESCO (n 4); Barendt (n 1); Matthew W Finkin and Robert Post, *For the Common Good: Principles of American Academic Freedom* (Yale University Press 2009) 17–25 <<https://doi.org/10.12987/9780300155549>>.

¹⁷ Keith E Whittington, *Speak Freely: Why Universities Must Defend Free Speech* (First paperback printing, Princeton University Press 2019) 21–35.

¹⁸ *Mustafa Erdoğan and Others v Turkey*, paras. 40–46; *Ayuso Torres v Spain*, paras. 56–59.

¹⁹ Post (n 5) 9–25; UN Committee on Economic, Social and Cultural Rights, 'Implementation of the International Covenant on Economic, Social and Cultural Rights: #General Comment No. 13 (21st Session, 1999) : The Right to Education (Article 13 of the Covenant)' 38–40 <<https://digitalibrary.un.org/record/407275?v=pdf>> accessed 25 March 2026; UNESCO (n 4) para 1,6. See also: *Mustafa Erdoğan and Others v Turkey*, paras. 40–46; *Sorguç v Turkey*, paras. 35–41; *Herbai v Hungary* (ECtHR, 5 November 2019) application no 11608/15, paras. 37–40.

In its broadest sense, expression encompasses a wide range of communicative acts, including spoken, written, artistic, and symbolic forms.²⁰ Yet academic expression cannot be equated with any expression made by an academic. It has to be characterized by its *epistemic dimension*, namely its grounding in expertise, methodological rigor, and a commitment to the pursuit of knowledge.²¹ This distinction is crucial because academics may act in multiple capacities at once. As the Court's case law indicates, individuals may simultaneously function as judges, public commentators, or private citizens, and the level of protection afforded to their expression may vary accordingly.²² Consequently, not every statement made by an academic qualifies as academic expression.

In theoretical terms, it is useful to distinguish between three categories of academic expression: intramural speech, extramural speech, and off-topic speech. *Intramural speech* refers to expression within academic teaching, research, and scholarly publication. It forms the core of academic freedom because it is directly connected to the production, transmission, and critical evaluation of knowledge within an academic setting. This category includes lectures, seminars, conferences, peer-reviewed publications, and other forms of scholarly communication governed by disciplinary standards and academic methodology. Its protection is not dependent solely on the physical location of the speech, but rather on whether the expression forms part of genuine scholarly discourse.²³ For this reason, academic publications may retain an intramural character even when they are published outside university premises, provided that they are based on scientific or scholarly methods. Protection may also extend to invited speakers, including non-academics, where they participate in an academic forum and contribute to scholarly debate.²⁴ *Extramural speech* refers to expression outside the university but still within the speaker's field of expertise. Academic freedom of expression therefore covers not only internal academic speech, but also extra-mural interventions by academics in their areas of expertise, for example, in the media, public lectures, or debates with the general public, although usually to a slightly lesser degree than purely internal academic speech. The Court, which affords protection to academic speech on matters of public interest, provided that it does not amount to hate speech or other unprotected expression.²⁵ In *Kula v Turkey*, the Court found a violation of Article 10 where a university professor had been disciplined for participating in television programmes concerning matters related to his expertise.²⁶ Similarly, in *Ayuso Torres v Spain*, the Court confirmed that academic commentary may remain protected even when expressed outside the university context.²⁷ The place and medium of communication is therefore secondary, what matters is whether the speech remains connected to the speaker's professional competence and contributes to public debate within that field. Off-topic

²⁰ Mark Tushnet, Alan Chen and Joseph Blocher, *Free Speech beyond Words: The Surprising Reach of the First Amendment* (New York University Press 2017) 1–15; Jeffrey W Howard, 'Freedom of Speech' in Edward N Zalta and Uri Nodelman (eds), *The {Stanford} Encyclopedia of Philosophy* (Spring 2024, Metaphysics Research Lab, Stanford University 2024) <<https://plato.stanford.edu/archives/spr2024/entries/freedom-speech/>>.

²¹ Post (n 5) 61–65.

²² *Wille v Liechtenstein* [GC] (ECtHR, 28 October 1999) application no 28396/95; *Kula v Turkey* (ECtHR, 19 June 2018) application no 20233/06; *Ayuso Torres v Spain*.

²³ *Vrieling and others* (n 13) 20–21.

²⁴ *Ibid.*; See also: *T v United Kingdom* (ECtHR, 12 October 1983) application no 8231/78.

²⁵ *Vrieling and others* (n 13) 20–21.

²⁶ *Kula v Turkey*, paras. 50–53.

²⁷ *Ayuso Torres v Spain*, paras. 56–59.

speech refers to expression by academics on matters outside their field of expertise. Unlike intramural and extramural speech, it does not fall within academic freedom in the strict sense because it is not grounded in the speaker's disciplinary competence, scholarly methodology, or expert knowledge.²⁸ Such expression may nevertheless be protected by ordinary freedom of expression under Article 10 of the Convention, since academics do not lose their civil liberties when speaking as private individuals.²⁹ The distinction is important because academic freedom should not be understood as a right to use the authority of the university to promote private views on matters unrelated to one's academic speciality. Accordingly, where academics speak on matters outside their expertise, they should make clear that they are not speaking in their professional capacity or on behalf of their institution, although they should not be sanctioned by the university merely for exercising their freedom as private citizens.³⁰

Although the Court has addressed several cases involving academics and their expression, these judgments have largely remained fragmented and context-specific. The Court has recognized the importance of academic freedom and, in certain instances, afforded heightened protection to scholarly speech, particularly where it contributes to matters of public interest or democratic debate. Despite these judicial developments, however, the Court has not articulated a consistent analytical framework for determining when expression qualifies as academic and what level of protection it should receive. This absence of doctrinal clarity creates uncertainty and weakens predictability in the application of Article 10 towards academic expression.

At the theoretical level, this problem reflects a deeper tension between general freedom of expression and academic freedom of expression. General freedom of expression is classically grounded in content neutrality and broad expressive inclusiveness.³¹ Academic freedom, by contrast, inherently needs to involve *content-based evaluation*, because the production of knowledge depends on disciplinary standards, expertise, and methodological rigor.³² As Post argues, the production of expert knowledge necessarily relies on forms of content differentiation that would be difficult to reconcile with a strictly neutrality-based conception of free speech.³³ Academic freedom therefore represents a distinct normative framework and it cannot be fully reduced to general freedom of expression, even if it remains rooted in it.³⁴ The current doctrinal approach thus suffers from three central deficiencies, those being the absence of a unified definition of academic expression, the ambiguity between status-based and context-based approaches, and the lack of a coherent analytical framework to identify academic expression. These deficiencies form the basis for reconstruction developed in the following section.

²⁸ Vrieling and others (n 13) 23.

²⁹ UNESCO (n 4) para 26.

³⁰ *ibid*; Vrieling and others (n 13) 23.

³¹ Frederick F Schauer, *Free Speech: A Philosophical Enquiry* (Cambridge Univ Press 1982) 101; Eric M Barendt, *Freedom of Speech* (2. ed, 1. publ. in pbk, Oxford University Press 2007) 2–13.

³² Louis Menand (ed), *The Future of Academic Freedom* (University of Chicago Press 1996) 8; Robert Post, *Democracy, Expertise, and Academic Freedom: A First Amendment Jurisprudence for the Modern State* (Yale University Press 2012) 66–68 <<https://doi.org/10.12987/9780300148640>>.

³³ Post (n 32) 9–10.

³⁴ Finkin and Post (n 16) 79–89.

3. MUSTAFA ERDOĞAN AND OTHERS V. TURKEY – HOW TO IDENTIFY ACADEMIC EXPRESSION?

In *Mustafa Erdoğan and Others v. Turkey*, the case concerned a constitutional law professor who published a highly critical article analysing a judgment of the Turkish Constitutional Court dissolving the Fazilet (Virtue) Party on the grounds that it had become “a hub of activity contrary to the principles of secularism” (§§ 10–14). At the time, Mustafa Erdoğan was a professor of constitutional law, while the co-applicants included the editor and publisher of the quarterly journal *Liberal Thinking*, in which the article appeared (§§ 8–9). In his article, Erdoğan not only criticised the Constitutional Court’s interpretation of secularism and its reasoning in dissolving the political party, but also questioned the professional competence, impartiality, and intellectual capacity of several Constitutional Court judges (§§ 10–14). He further suggested that the judgment reflected broader political pressures connected to the Turkish establishment rather than purely judicial reasoning (§§ 10–14). Following publication, several Constitutional Court judges brought civil defamation actions against the applicants, and domestic courts ordered them to pay damages on the ground that the article exceeded the permissible limits of criticism and amounted to defamation (§§ 15–24). The Court ultimately found a violation of Article 10 ECHR, emphasizing both the importance of public debate concerning the functioning of the judiciary and the special role of academic freedom (§§ 40–46). The Court stressed that academic freedom extends beyond research and teaching and also protects academics’ freedom to express controversial or harsh opinions within the sphere of their professional expertise and competence (§ 40).

Despite reaching a result favourable to the protection of academic freedom of expression, the judgment left unresolved a significant doctrinal question: *Under what circumstances may a person and their expression be classified as “academic” for the purposes of Article 10 ECHR enhanced protection?* In this respect, Erdoğan represents an important but incomplete step in the Court’s approach to academic expression. While the Court once again recognised the particular importance of academic speech,³⁵ it did not articulate a structured framework for determining when expression possesses an “academic element” warranting enhanced protection. The doctrinal significance of the case therefore lies primarily in the *joint concurring opinion of Judges Sajó, Vučinić and Kūris*.³⁶ Although not formally part of the majority reasoning, the opinion provides a conceptual and methodological foundation for understanding academic freedom as a distinct manifestation of freedom of expression under Article 10 ECHR. At the outset, the concurring judges emphasise a broader methodological concern: where the Court relies on concepts that are not yet fully crystallised in its case-law, it bears a judicial obligation to clarify their meaning, rationale, and scope. Academic freedom, in their view, constitutes precisely such a concept, whose normative foundations remain insufficiently settled within the Court’s jurisprudence.³⁷ The concurring opinion further reconceptualises academic freedom beyond its traditional institutional understanding. Historically, academic freedom was associated primarily with institutional autonomy, protecting universities from external interference in teaching and research.³⁸ The judges, however,

³⁵ *Mustafa Erdoğan v Turkey*, paras. 40–46.

³⁶ *Mustafa Erdoğan and Others v Turkey* (ECtHR, 27 May 2014) application nos 346/04 and 39779/04, joint concurring opinion of Judges Sajó, Vučinić and Kūris.

³⁷ *Mustafa Erdoğan*, joint concurring opinion, para. 2.

³⁸ The Committee of Ministers, ‘Recommendation of the Committee of Ministers to Member States on the Responsibility of Public Authorities for Academic Freedom and Institutional Autonomy’ <<https://search.coe.int/cm?i=09000016805ca6f8>>.

emphasise that contemporary academic freedom also encompasses the personal autonomy of scholars, including their freedom to communicate ideas outside formal academic settings. Academic freedom is therefore not confined to scholarly journals, classroom teaching, or internal academic debate, but extends to so-called “extramural speech”, namely public interventions by academics on matters falling within their research, professional expertise, and competence.

In this respect, the concurring opinion conceptualises academic freedom as a distinct manifestation of freedom of expression under Article 10 ECHR whose normative foundations remain insufficiently developed within the Court’s jurisprudence. The judges argue that the existing assumptions underpinning the Court’s freedom of expression case-law are unable to fully explain the particular level of protection that should be afforded to academic speech, especially in its extramural dimension. This difficulty stems from the evolution of academic freedom itself. While traditionally associated with institutional autonomy and the protection of universities from external interference in teaching and research, academic freedom has gradually expanded to encompass the personal autonomy of scholars, including their freedom to participate in public discourse beyond formal academic settings.³⁹ The distinctiveness of academic freedom from general expression thus lies in its epistemic function. According to the concurring judges, the protection of academics’ extramural speech is closely linked to the need to communicate ideas for the advancement of learning, knowledge, and science.⁴⁰ This connection is particularly strong in the fields of social sciences and law, where scholarly discourse directly informs public debate on matters concerning governance, democracy, and public institutions. Consequently, public interventions by social and legal scholars, where grounded in research, professional expertise, and competence, inherently serve the public interest and therefore merit the enhanced level of protection under Article 10 ECHR.⁴¹

3.1 *The Emerging Erdoğan Framework?*

While the concurring opinion does not formally articulate a standalone doctrinal framework for identifying academic expression, it nevertheless provides the essential analytical elements from which such a framework can be reconstructed. Rather than offering a complete methodology, the judges formulate a set of implicit criteria intended to distinguish academic expression from ordinary public commentary and to justify its enhanced protection under Article 10 ECHR. For the purposes of this article, these criteria (the emerging Erdoğan framework) will serve as the analytical foundations of what will later be reconstructed as the “Erdoğan framework”.⁴²

According to the concurring opinion, determining whether speech has an “*academic element*” requires the establishment of three conditions: (a) whether the person making the speech can be considered an academic, (b) whether that person’s public comments or utterances fall within the sphere of his or her research, and (c) whether those statements amount to conclusions or opinions based on professional expertise and competence. Where these conditions are satisfied, the concurring opinion provides that the impugned statement must enjoy “*the utmost protection*” under Article 10 ECHR.⁴³

³⁹ibid 3-4,5.

⁴⁰ ibid 5.

⁴¹ ibid 6.

⁴² ibid 7.

⁴³ ibid 8.

The first condition concerns the identity of the speaker which must be assessed in light of the ECtHR's case-law, which conceptualises academic freedom as a form of professional freedom linked to individual scholars.⁴⁴ Accordingly, the Court examines whether the speaker maintains a sufficient connection to academia, typically in the form of an institutional or professional affiliation. This includes not only established academics, such as professors,⁴⁵ but may also extend to doctoral (PhD) students⁴⁶ or independent researchers⁴⁷ provided that their work reflects a genuine engagement with academic practice. At the same time, situations may arise in which an individual simultaneously holds an academic position and another professional role, particularly in the public sphere, such as that of a judge, military officer, or politician.⁴⁸ In such cases, it becomes essential to determine the capacity in which the individual was speaking, namely whether the expression in question was advanced in their role as an academic or in another professional capacity.⁴⁹

The second condition requires a substantive connection between the expression and the speaker's field of expertise. The Court's case-law demonstrates that particular attention is paid to whether the individual acts within the scope of their scholarly competence, often identifying applicants through their academic or research position, such as a "professor of" a given discipline⁵⁰ or a "researcher in" a relevant field.⁵¹ In this sense, academic freedom does not extend to all forms of expression made by academics/researchers, but only to those interventions that are sufficiently connected to their area of professional expertise.⁵² The concurring judges also make clear that the place, form, or audience of the speech is only a "secondary, auxiliary and often not decisive factor". This is particularly important for contemporary conditions, in which academic discourse increasingly takes place beyond the institutional university setting and across multiple public and digital fora.⁵³ Nevertheless, these factors cannot be regarded as entirely irrelevant. In determining the appropriate level of protection, it remains necessary to assess the audience addressed, the occasion on which the expression was made, and the purpose pursued by the speaker, as also reflected in the Court's contextual assessment in *Perinçek v. Switzerland* (§ 231).

While the second condition concerns the relationship between the expression and the speaker's field of expertise, the *third condition* examines the epistemic and methodological grounding of the expression itself. The decisive question is whether the impugned statement reflects a conclusion or opinion derived from professional expertise and scholarly analysis. In their concurring opinion, the judges emphasised that the protection afforded to Mr Erdoğan's statements did not stem merely from the fact that the article had been published in a quasi-academic journal, but from the fact that the impugned remarks formed part of a broader scholarly analysis conducted by a constitutional law professor within the scope of his professional expertise and competence. Crucially, the judges stressed that the opinion expressed was "*research-and-*

⁴⁴ Kriszta Kovács, 'Academic Freedom in Europe: Limitations and Judicial Remedies' (2025) 14 *Global Constitutionalism* 138, 148 <<https://doi.org/10.1017/S2045381724000091>>.

⁴⁵ Ayuso Torres v Spain, para 56.

⁴⁶ Sapan v Turkey (ECtHR, 8 June 2010) application no 44102/04.

⁴⁷ Kenedi v Hungary (ECtHR, 26 May 2009) application no 31475/05.

⁴⁸ Kovács (n 44) 149.

⁴⁹ Ayuso Torres v Spain, Wille v Lichtenstein.

⁵⁰ Ayuso Torres v Spain, para. 5; Sorguç v Turkey, para. 6.

⁵¹ Wille v Lichtenstein, para 22.

⁵² Perinçek v Switzerland [GC] (ECtHR, 15 October 2015) application no 27510/08, para. 231.

⁵³ Mustafa Erdoğan, joint concurring opinion, para. 8.

facts-related", even if potentially factually incorrect. What justified enhanced protection under Article 10 was therefore not the tone or form of the statement in isolation, but its methodological grounding in academic reasoning and its connection to an informed scholarly assessment. This condition thus distinguishes academic expression from ordinary public commentary by requiring that the expression be anchored in an identifiable process of intellectual and methodological inquiry.⁵⁴

The significance of the emerging Erdoğan framework thus lies in its *functional and epistemic orientation*. It shifts the focus away from purely formal status and institutional location toward the scholarly character of the speech itself.⁵⁵ At the same time, the framework remains implicit and underdeveloped. The concurring opinion outlines the relevant criteria, but neither the opinion itself nor the Court's broader case-law formalizes their structure or integrates them explicitly into the standard proportionality analysis under Article 10(2) ECHR.⁵⁶ This doctrinal incompleteness is precisely what makes further reconstruction necessary.

3.2 Implications and Limits of the Emerging Erdoğan Framework

The emerging Erdoğan framework represents a meaningful step toward a more nuanced understanding of academic freedom of expression under Article 10 ECHR. By isolating specific (three) criteria for identifying when speech possesses an "academic element", it introduces a level of analytical structure that is largely absent from the Court's academic freedom of expression jurisprudence. The framework offers a degree of conceptual clarity. The identification of three core elements provides a structured way of distinguishing academic expression from other forms of speech. In particular, the requirement that the expression be connected to the speaker's field of expertise and supported by a methodological or knowledge-based foundation introduces a principled basis for enhanced protection of academic expression. This helps explain why certain forms of academic speech warrant greater protection than others without relying on overly broad or vague justifications. One of its key contributions lies in its *epistemic orientation*. Rather than justifying academic speech solely by reference to its role in democratic debate, the framework introduces and underscores its function in the production and dissemination of knowledge. This shift is significant because it recognizes that academic expression has a value that is not reducible to immediate public relevance. Scholarly work often operates on longer time horizons and within specialized discourses and in various formats, yet it remains essential to the intellectual foundations of democratic society. By foregrounding this epistemic dimension, the emerging Erdoğan framework captures an aspect of academic freedom that is frequently overlooked in general freedom of expression analysis.

Despite these positive implications, this article argues that the emerging Erdoğan framework remains underdeveloped. *First*, as it originates in a concurring opinion rather than the majority of reasoning, it does not carry authoritative doctrinal status. As a result, its practical application remains uncertain, and there is no guarantee that future Court's case-law will adopt or refine its approach. This makes further scholarly engagement with the doctrine of academic freedom of expression increasingly necessary, particularly because the Court's existing case-law struggles to sufficiently capture not only the "classical" intramural academic expression, but even the modern realities of academic practice itself. In contemporary conditions, many academics

⁵⁴ *ibid*, paras. 9-10

⁵⁵ *ibid*, para. 8.

⁵⁶ *ibid*, paras. 4, 7 and 8.

(especially in the fields of social sciences, political science, and law) increasingly operate beyond the traditional institutional setting and perform part of their scholarly function through modern public fora such as podcasts, television appearances, blogs, online platforms, and social media.

Second, the internal structure of the emerging Erdoğan framework remains insufficiently defined. It is unclear whether the three elements operate as strict cumulative conditions or rather as flexible and mutually reinforcing indicators. For example, the framework does not clarify whether strong epistemic grounding may compensate for the absence of a direct connection between the expression and the speaker's formal field of research, or whether speech by an academic lacking a sufficiently identifiable methodological basis should nevertheless benefit from enhanced protection. As regards the first issue, the apparent purpose of the second condition is to limit the protection of academic expression to interventions falling within the speaker's area of scholarly competence. However, the requirement that the expression must "*fall within the sphere of his or her research*" raises important interpretative difficulties. It remains unclear how narrowly such a sphere should be understood, particularly in light of the increasingly interdisciplinary character of contemporary scholarship. A person occupying an academic position may legitimately and competently contribute to discussions extending beyond their immediate research specialization while remaining within the broader boundaries of their discipline. For instance, it is questionable whether a criminal law scholar commenting on issues of civil law should automatically be regarded as speaking outside the scope of their research. In the authors' view, such expression should not be excluded from enhanced protection where it nevertheless satisfies the third condition, namely, where the statement is epistemically, methodologically, and grounded in research. However, the third (epistemic) condition raises a different but equally significant difficulty as well. While the idea that academic speech should be grounded in expertise and methodological rigour is intuitively appealing, it raises the question of how courts are to assess such qualities. Judicial bodies are not always well equipped to evaluate the strength or validity of scholarly arguments, particularly in complex or highly specialized fields. There is therefore a risk that applying this criterion could either become overly formalistic or lead to inappropriate substantive assessments of academic content. The emerging Erdoğan framework does not clearly explain how courts are to assess "*professional expertise and competence*", nor how they should determine whether expression is genuinely "*research-and-facts-related*". In light of paragraph 10 of the concurring opinion, the assessment appears to have been conducted largely contextually. The decisive factors included the fact that the applicant was a professor of constitutional law, writing in a quasi-academic journal on a Constitutional Court judgment, and that his contested statements were preceded by professional scholarly analysis. The central element therefore appears to be the methodological grounding of the expression itself. Accordingly, the authors argue that the third condition should generally be regarded as satisfied where the speaker explicitly identifies the theoretical, methodological, or research foundations upon which the expressed opinion or conclusion is based within the course of his or her expression without any qualitative examination thereof.

Third, the emerging Erdoğan framework does not fully address the changing conditions of academic communication within the changing concept of the public sphere to digital public sphere. Academic discourse is no longer confined to universities, academic journals, or scholarly conferences.⁵⁷ Increasingly, it takes place within public

⁵⁷ Murphy and Costa (n 6) 3–4.

and digital spaces, where the boundaries between academic and non-academic speech are significantly blurred. Although the framework acknowledges that the form and medium of expression constitute merely a “*secondary, auxiliary and often not decisive factor*”, it is precisely this ongoing transformation of academia beyond institutional walls that requires explicit recognition that academic expression continues to enjoy protection even when exercised through new communicative forms. Otherwise, there remains a risk of preserving outdated conceptions according to which academic freedom protects expression only within traditional academic settings, such as universities, scholarly journals, or academic conferences.

Taken together, these considerations suggest that the emerging Erdoğan framework should be understood as an important starting point rather than a finished doctrinal model. Its emphasis on epistemic justification and disciplinary relevance represents a significant corrective to the Court’s existing approach to academic freedom of expression. At the same time, however, the framework remains closely tied to the professional identity and formal positioning of the speaker and expression. There is therefore a risk that future courts may interpret the Erdoğan criteria in an overly rigid and status-centric manner, focusing primarily on formal academic affiliation, institutional status, or narrowly defined fields of expertise in isolation from the broader epistemic function of the expression itself. In the authors’ view, such an approach would insufficiently reflect the contemporary realities of academic communication, particularly within the digital public sphere where scholarly engagement increasingly transcends traditional institutional settings and disciplinary boundaries. Further doctrinal development is therefore necessary in order to move from a predominantly status-based understanding of academic expression toward a more functional and epistemically oriented framework capable of assessing academic speech through its contribution to knowledge production, critical discourse, and truth-seeking under contemporary conditions.

This need for further doctrinal clarification should not, however, be understood as a call for a closed or exhaustive definition of academic expression. Such rigidity would be difficult to reconcile both with the evolving character of academic practice and with the Convention’s capacity to respond to changing social conditions. The proposed framework is therefore intended to operate through open-ended and context-sensitive criteria rather than fixed categories. Its purpose is not to determine once and for all who qualifies as an “academic” or what forms of communication constitute “academic speech”, but to structure the contextual assessment by identifying the features that justify treating particular expression as epistemically connected to academic activity. In this sense, doctrinal clarification and evolutionary interpretation are complementary rather than competing objectives: the former provides consistency and transparency, while the latter preserves the flexibility necessary to accommodate new forms of scholarly activity and communication.

4. TOWARDS A FUNCTIONAL-EPISTEMIC FRAMEWORK FOR ACADEMIC EXPRESSION

The identification of academic expression for the purposes of Article 10 ECHR cannot be resolved solely through institutional or formal criteria. The Court’s existing approach, which implicitly relies on academic status, institutional affiliation, or, potentially, the location of the speech, can no longer adequately reflect the contemporary realities of academic communication, particularly within the digital public sphere. A different conceptual foundation is therefore required. At the same time, the emerging framework outlined in the concurring opinion in *Mustafa Erdoğan and Others v. Turkey*

represents an important doctrinal step toward recognising the distinct epistemic nature of academic expression contrary to general expression. The present section builds upon this foundation. However, it argues that the criteria identified by the concurring judges should not be understood as rigid or formally separable conditions. Such an interpretation risks oversimplifying the dynamic and context-sensitive nature of contemporary academic communication, especially in circumstances where scholarly discourse increasingly transcends institutional settings and unfolds across multiple public and digital fora. Instead, the protection of academic expression should be assessed through a *functional-epistemic approach* based on the interaction of multiple mutually reinforcing dimensions which together form a holistic epistemic assessment of the speech in question.

At its core, freedom of expression is traditionally justified by its epistemic function, namely its role in the discovery, testing, and preservation of truth through the open exchange and confrontation of ideas. This epistemic rationale is particularly visible in the classical theory of truth associated with John Stuart Mill, according to which even controversial, incorrect, or unpopular opinions retain social value because they contribute to the broader process through which truth is critically examined and refined.⁵⁸ The protection of expression is therefore not dependent upon the correctness of a statement as such, but upon its contribution to the conditions necessary for rational public deliberation and knowledge formation. This epistemic logic shall apply with particular force to academic expression. Academic freedom is not merely a professional privilege attached to university employment, but a mechanism intended to safeguard the production, verification, and dissemination of knowledge. Academic expression therefore deserves enhanced protection not simply because of the formal identity of the speaker, but because of its contribution to epistemic processes essential for democratic society. From this perspective, academic expression should be understood functionally rather than formally. What distinguishes academic discourse from ordinary public commentary is not institutional affiliation alone, but the presence of an identifiable epistemic function grounded in expertise, methodological rigor, and reasoned engagement with knowledge of claims. The decisive question is therefore whether a given form of expression meaningfully contributes to the process of knowledge creation and critical examination. Rather than operating under rigid cumulative conditions, the proposed approach should be understood in context. It is structured around three interrelated epistemic dimensions which together facilitate the assessment of whether expression qualifies for enhanced protection as academic expression.

The first dimension concerns epistemic standing rather than academic status. Academic status should not be understood as a purely formal or institutional category, but rather as an indicator of participation within scholarly practices and disciplinary communities. What matters is not merely whether the speaker formally holds a university position, but whether the individual demonstrably operates within frameworks of research, engages with academic disciplinary standards, and contributes to scholarly discourse.⁵⁹ This approach reflects contemporary academic realities, where meaningful scholarly contributions increasingly emerge outside traditional institutional structures. Consequently, academic expression may originate not only from formally employed academics, but also from doctoral students, affiliated researchers, or practitioners who

⁵⁸ Alburey Castell (ed), *On Liberty* Mill (Harlan Davidson 1947) 16-22,34-36,52-53.

⁵⁹ This functional understanding corresponds with the Court's gradual recognition that academic freedom may extend beyond strictly institutional academic settings, particularly where expression remains connected to scholarly expertise and public debate, as reflected in cases such as *Mustafa Erdoğan and Others v Turkey*, *Kula v Turkey*, and *Ayuso Torres v Spain*.

actively participate in academic knowledge production and dissemination. Such an understanding also enables academic freedom of expression to operate both intramurally and extramurally. Protection may therefore extend to individuals who formally act outside academia, yet contribute to academic teaching, scholarly debate, or professional education based on expertise and methodological rigor via lecture or workshop. This is particularly relevant in contemporary disciplines, especially in law and other practice-oriented fields, where professionals from outside universities frequently participate in academic instruction and dissemination of knowledge. Under this approach, the protection of academic expression simultaneously safeguards not only the speaker's freedom of expression, but also the students' right to receive information and education grounded in expertise, critical inquiry, and intellectual rigor.

The second dimension concerns the truth-seeking orientation of academic expression. Unlike a restrictive formulation of the emerging Erdoğan framework, which could confine enhanced protection only to speech falling strictly within the speaker's immediate field of research specialization, the present approach argues that academic expression must be understood more broadly in light of its epistemic purpose. In accordance with Mill's theory of truth, the decisive consideration is not whether the expression corresponds precisely to the speaker's narrowly defined research niche, but whether it meaningfully contributes to processes of knowledge formation, critical examination, and rational scholarly debate within a broader disciplinary context. Academic discourse, particularly in contemporary conditions, frequently transcends rigid disciplinary boundaries while remaining grounded in transferable scholarly methods, expertise, and intellectual rigour. Accordingly, the requirement that speech must "fall within the sphere of research" should not be interpreted formalistically or restrictively. A medical academic may, for example, engage in protected scholarly commentary extending beyond a precise area of medical specialization where the expression remains grounded in recognizable expertise and methodological reasoning. Similarly, legal academics often operate across interconnected fields of law, and their scholarly competence cannot reasonably be confined only to their primary research focus. Provided that the requirements of epistemic standing and methodological grounding remain satisfied, academic protection may therefore extend to adjacent or related areas of disciplinary expertise. Under this approach, the decisive factor is whether the expression remains epistemically oriented toward reasoned truth-seeking rather than mere personal assertion, ideological advocacy, or arbitrary commentary. Even controversial or factually incorrect claims may therefore retain academic significance where they are formulated within a framework of scholarly reasoning, remain open to rational criticism and examination, and contribute to broader processes of intellectual debate.⁶⁰ This interpretation prevents academic freedom from being reduced to rigid disciplinary formalism while simultaneously preserving the epistemic justification upon which enhanced protection ultimately rests.

The third dimension concerns methodological grounding. Academic expression acquires its specifically scholarly character where it is supported by recognizable methods of inquiry, engagement with existing bodies of knowledge, and openness to critical verification, contestation, and intellectual scrutiny. Methodological rigor thus transforms expression from a merely personal or political opinion into an epistemically grounded contribution to public discourse. Importantly, the assessment of

⁶⁰ This logic is also implicitly reflected in the concurring opinion in *Mustafa Erdoğan and Others v Turkey*, where the judges emphasised that expression may warrant enhanced protection even where the impugned statements are potentially incorrect, provided that they remain connected to research, expertise, and scholarly analysis.

methodological grounding does not require courts to determine whether the underlying academic claim is ultimately correct, convincing, or scientifically accurate. Such an approach would risk transforming judicial review into substantive evaluation of academic truth, something courts are institutionally ill-equipped to perform. Instead, the relevant question is whether the expression demonstrates a sufficiently identifiable intellectual and research-based foundation – the *assessment of epistemic seriousness*.⁶¹ In other words, courts should assess whether the statement is connected to recognizable forms of scholarly reasoning, including engagement with theoretical frameworks, existing literature, empirical material, disciplinary methodology, or structured analytical argumentation. Under this approach, the decisive factor is not the correctness of the conclusion reached by the speaker, but whether the opinion emerges from an identifiable process of intellectual inquiry rather than from purely arbitrary, populist, or unsupported assertion. Even controversial, harsh, or potentially incorrect statements may therefore retain their academic character where they remain grounded in methodological reasoning and are capable of rational scholarly contestation.⁶² This dimension is particularly important in the contemporary digital public sphere, where academic discourse increasingly occurs through formats that do not follow traditional scholarly conventions, such as podcasts, blogs, interviews, online commentary, or social media interventions. Academic expression in such contexts may not contain formal citations, footnotes, or explicit methodological exposition typically associated with academic publications. Nevertheless, expression may still retain sufficient methodological grounding where the broader context demonstrates a recognizable connection to expertise, research, and intellectually structured reasoning.

If academic expression satisfies the *functional-epistemic criteria* outlined above, enhanced protection under Article 10 ECHR should follow not merely at the level of abstract principle, but also within the structure of proportionality analysis itself. Such protection should manifest through stricter scrutiny of state interference, particularly where sanctions are capable of producing chilling effects upon academic discourse and public intellectual participation. In practical terms, this may require narrower margins of appreciation, especially where the impugned expression contributes to scholarly or public debate on matters of democratic significance. This does not imply that the Court should displace domestic authorities in the assessment of every controversy involving academic expression. The distinction is rather between identifying the Convention interest at stake and assessing whether a particular interference with that interest is justified. Domestic authorities remain primarily responsible for evaluating the factual context and the necessity of particular restrictions, subject to European supervision. However, leaving the very identification of academic expression entirely to divergent national definitions would risk producing substantially different levels of Article 10 protection for functionally comparable scholarly activity across Contracting States. A Convention-level framework should therefore establish only the common criteria relevant to identifying the academic character of expression, while preserving an appropriate margin of appreciation for the subsequent assessment of whether an interference satisfies Article 10(2).

At the same time, heightened protection does not exclude the application of Article 10(2) ECHR limitations, particularly in cases involving hate speech, deliberate disinformation, or serious violations of the rights of others. The purpose of enhanced

⁶¹ Such an approach also corresponds to the Court's contextual reasoning in *Ayuso Torres v Spain*, where the applicant's public intervention remained protected largely because it was understood within the broader context of her professional expertise and academic engagement, even though the Court did not explicitly formulate a structured epistemic test.

⁶² *Mustafa Erdoğan and Others v Turkey*, para 44.

protection is therefore not to immunise academic actors from legal responsibility, but to ensure that epistemically grounded scholarly interventions receive **weight proportionate to their democratic and knowledge-producing significance**.

5. CONCLUSION

The contemporary transformation of the public sphere fundamentally challenges traditional understandings of academic freedom of expression under Article 10 ECHR. Academic discourse no longer unfolds exclusively within universities, scholarly journals, or institutional academic settings. Increasingly, academics participate directly in broader public and digital debate through online platforms, media interventions, podcasts, blogs, and other forms of public communication in which the boundaries between academic, political, and private expression are frequently blurred. In such conditions, approaches to academic freedom based primarily on formal academic status or institutional location become increasingly insufficient for identifying the scope of protected academic expression.

This article has argued that academic freedom of expression should be understood as a context-sensitive reinforcement of freedom of expression under Article 10 ECHR grounded in the epistemic function of academic activity. The Court's existing jurisprudence, while repeatedly emphasising the importance of academic freedom within democratic society, has not yet developed a coherent analytical framework capable of explaining when expression qualifies as academic expression and why such expression may warrant enhanced protection. In particular, the Court's case law continues to oscillate between institutional, status-based, and general freedom of expression approaches without fully addressing the changing realities of contemporary academic communication.

Against this background, the article has examined the conceptual significance of the concurring opinion in *Mustafa Erdoğan and Others v Turkey*. Although not formally constituting part of the Court's majority reasoning, the concurring opinion represents an important doctrinal development because it identifies several criteria capable of distinguishing academic expression from ordinary public commentary. Its significance lies in recognising that academic freedom cannot be reduced merely to institutional autonomy or professional status, but must also encompass extramural interventions by academics acting within the sphere of their expertise and scholarly competence. At the same time, the article has argued that the emerging Erdoğan framework remains incomplete if interpreted through rigid or exclusively formal criteria. Contemporary academic communication frequently transcends narrow disciplinary boundaries and increasingly takes place outside traditional academic fora. The protection of academic expression should therefore not depend solely upon whether a speaker formally occupies an academic position or whether the expression occurs within institutional academic settings. Instead, the decisive consideration should be whether the expression performs an identifiable epistemic function connected to expertise, methodological grounding, and contribution to processes of knowledge production, critical inquiry, and truth-seeking. For this reason, the article proposed a functional-epistemic approach to academic freedom of expression structured around three mutually reinforcing dimensions: epistemic standing, truth-seeking orientation, and methodological grounding. Under this approach, academic expression derives its constitutional significance not merely from the identity of the speaker, but from the epistemic character of the expression itself. The proposed framework is deliberately open-ended rather than definitional in a rigid sense. It seeks to provide sufficient doctrinal structure to ensure consistency in identifying the Convention

interest at stake, while preserving the contextual flexibility and national margin of appreciation inherent in the subsequent assessment of restrictions under Article 10(2) ECHR. The relevant inquiry is therefore whether the speech demonstrates a sufficiently identifiable connection to scholarly reasoning, disciplinary standards, and intellectually grounded inquiry capable of contributing to informed public debate.

Importantly, however, the functional-epistemic approach should not be understood as granting academics a privileged constitutional status detached from ordinary democratic contestation. Enhanced protection of academic expression does not imply immunity from criticism, institutional accountability, or the legitimate limitations recognised under Article 10(2) ECHR. Nor does it require courts to determine the substantive correctness or scientific validity of academic claims. Courts are institutionally ill-equipped to function as arbiters of truth, particularly in contested or highly specialised fields of knowledge. The relevant inquiry is therefore not whether an academic conclusion is objectively correct, but whether the expression demonstrates a sufficiently identifiable epistemic and methodological foundation connected to scholarly inquiry. This limitation becomes particularly significant within the contemporary digital public sphere characterised by increasing politicisation of expertise, fragmentation of public discourse, and declining trust in institutional authorities. Academics, like other participants in democratic communication, may engage in ideological advocacy, methodological negligence, or dissemination of misinformation. Academic freedom therefore protects neither the presumed infallibility of academic actors nor expertise as such. Rather, it protects the institutional and discursive conditions necessary for the open contestation, verification, and development of knowledge itself.

Ultimately, academic freedom of expression under Article 10 ECHR should be understood as protecting those forms of expression that meaningfully contribute to democratic society through the production, dissemination, and critical examination of knowledge. By shifting the analytical focus from formal institutional status toward epistemic function, the functional-epistemic approach developed in this article seeks to provide a more coherent framework for identifying both the scope and the limits of academic expression under the conditions of the contemporary digital public sphere.

