**Mandate of the Special Rapporteur on the right to education**

**ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION**

**IN EDUCATIONAL INSTITUTIONS**

**Call for CONTRIBUTIONs**

For her upcoming report to the Human Rights Council to be presented in June 2024, the United Nations Special Rapporteur on the right to education, Ms. Farida Shaheed, will consider academic freedom and freedom of expression in educational institutions.

The report will build on previous work achieved by other United Nations human rights mechanisms on the topic, particularly the Special Rapporteur in the field of cultural rights, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Committee on Economic, Social and Cultural Rights. While recognizing that there is no single, exclusive international human rights framework for the subject, Ms. Shaheed will consider academic freedom through the right to education framework. More precisely, the report intends to consider academic freedom as part of the entitlement to receive and provide quality education, at all levels of education.

The Special Rapporteur intends to take stock of setbacks and progress both under international human rights law and in domestic legislation and practice concerning defining academic freedom, ensuring its enjoyment by all relevant actors, and protecting it from attacks and interferences.

The report will examine existing legal frameworks and normative content of academic freedom as a human right. It will consider subjects and duty bearers of this right. It will also analyze, from a human rights perspective, direct and indirect attacks on and interferences with respect to the academic freedom of staff and students, including through commercialization, online surveillance, funding, conditions of work and studies and other pertinent issues.

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| **Name of the country/entity submitting information** | **Federazione Lavoratori della Conoscenza. CGIL** |

**Questions**

**General framework**

1. How is academic freedom defined and protected in the constitution or laws of your country, and what are possible limitations or restrictions? Please provide the original citation and source, as well as a summary of relevant judicial practice, if any.

Article 33 of the Italian Constitution states that: a. 'Art and science are free and teaching is free'; b. 'Institutions of high culture, universities and academies, have the right to set their own autonomous rules within the limits established by the laws of the State'. In the Italian constitutional framework, academic freedom is therefore structured around the principles of freedom of teaching (which applies to institutions and individual lecturers) and the regulatory autonomy (subject to legal requirements) of training and research institutions. National legislation must comply with these constitutional principles while being able to define the limits and the legal and regulatory framework within which these principles are enforced, balancing them with other constitutional principles. These principles are also recognised in the statutes of universities and research institutions, both public and private.

2. Are academic staff, teachers, students all entitled to academic freedom? Does this differ by level of education? Please explain.

Italian teachers, at all levels, enjoy teaching autonomy, although this autonomy differs in characteristics at the different levels of education and must always operate within ministerial indications on curricula (in the case of primary and secondary education) and course regulations (in the case of higher education). Students, teachers and academic staff also enjoy the rights of free association and free expression, albeit within the limits set by state laws and the rules of good conduct governing civil servants and public employees and within the framework of the rules governing the right of association.

3. What do you consider to be (a) the main challenges to academic freedom, and (b) gaps in the legal framework for protecting academic freedom?

While freedom of teaching is constitutionally guaranteed, self-reliance in research activities does not enjoy an adequate constitutional guarantee nor a specific definition. Even if this is on the whole recognised within the regulatory autonomy of training and research institutes, the growing weight of evaluation procedures as well as of funding for scientific research aimed at specific programmes or objectives (national and European) have severely curtailed the possibilities of carrying out basic and curiosity-driven research activities. On the teaching side, within a fairly solid regulatory framework, the growing polarisation and radicalisation of the debate in society increasingly puts the freedom of expression of the teacher in tension with the deontological requirements of propriety of the public servant. Increasing pressure is being exerted by administrations that restrict their employees' right to criticism on the basis of an extremely stringently interpreted principle of 'protection of the administration'.

**Autonomy of educational institutions**

4. Please explain the autonomy and self-governance enjoyed by educational institutions at the different tiers of education. Please explain what autonomy and self-governance entail. Are there restrictions on police or military personnel entering educational institutions? If so, please share the rules.

The constitutional principle of the autonomy of academic institutions is regulated by specific rules that limit their self-governance. For example, Law 240/2010, which regulated university governance, has downsized the role of collegiate bodies such as the Academic Senate compared to the past, attributing more functions to the Rector, the Board of Directors and the Director General. The internal regulatory autonomy of university institutions has thus been reduced and limited. The increasing weight of financial governance and budgetary and spending regulations has further reduced the possibilities for universities and research institutions to exercise effective institutional autonomy. Funding that is increasingly tied to parameters identified by the Ministry makes universities and research institutions less and less autonomous in identifying their own investment and planning strategies. The police can only in rare cases, according to specific legal provisions and after authorization by the Questore (Delegate authority of the Ministry of the Interior / Home Office), or after a request by the Rector, enter university premises. More and more often, however, there are cases of unauthorized intervention by the academic authorities (Rector) on university premises for reasons of public order. For other reasons, the authorization of a Magistrate is always required.

5. Please provide examples of institutional guidelines/codes of conduct developed to ensure respect for academic freedom, including from external public or private actors.

The Statute of the University Federico II of Naples, similarly to other statutes and by the constitutional order and the laws in force, states: *1. The University, in recognition of its inalienable public function and vocation, affirms its secular, pluralistic, and independent character from any ideological, political and economic orientation. [...] 3. The University guarantees the freedom of expression of thought, of association, and of assembly, to achieve the full participation of all its components in the democratic life of the University. 4. The University undertakes to ensure gender equality and equal opportunities, strengthening the protection of male and female workers and guaranteeing the absence of any form of moral or psychological violence, direct and indirect discrimination related to gender, age, sexual orientation, ethnic origin, disability, religion, and language. [...] 6. The University shall guarantee to individual professors and researchers, respecting their legal status, the freedom and autonomy of research and teaching, taking into account the coordination requirements and the training objectives of the teaching programmes envisaged by the structures they belong to. 7. The University, an autonomous and unitary subject, recognizes the plurality of cultures that contribute to its identity*.

**Funding**

6. How is funding, including for research, regulated? Is the process transparent, and are there any guarantees put in place to ensure respect for academic freedom?

Universities and research institutions receive 'ordinary' operating funds from the Ministry and enjoy management autonomy that must be exercised within spending constraints defined by state laws. An increasing share of this funding is 'targeted', i.e. oriented by the Ministry's policies. Within this framework, the resources earmarked for basic and curiosity-driven research have been greatly reduced. Most of the Italian research funding provided by the Ministry or by regional and local authorities is linked to public competitive tenders, in most cases on lines of action deemed strategic and strongly oriented towards the third mission or technology transfer. These funding lines have favoured a substantial scientific conformism and the downsizing of basic and non-applied research opportunities. The call and project selection processes are on the whole transparent and open, the procedures for evaluating project proposals are not always transparent and the selection of evaluators clear and transparent.

7. Which rules and regulations protect academic freedom from interferences by commercial actors and financial sponsors, at different tiers of education? Please explain how conflicts of interest that may arise are addressed.

The rules for collaboration between researchers/teachers and commercial and financial actors are quite stringent and the supervisory and control function of the academic authorities is adequate. Conditions of potential conflict of interest must be adequately reported. All collaborations with external parties, particularly if not academic bodies and for activities not strictly related to scientific research, must be authorised by the administration.

**Surveillance**

8. Please explain whether and the extent to which academic staff and students, at all levels of education, are subject to surveillance by public authorities, for example through on-site cameras or online scrutiny. Has this led to undue restrictions to academic freedom and freedom of expression in educational institutions?

Italian legislation guarantees broad respect for individual privacy, particularly of workers. Surveillance is provided for in common areas and guaranteed with a variety of tools if properly authorized and communicated. Video surveillance is possible if deliberated by the academic bodies and/or the administration, but it must include agreements of a trade union nature and adequate information of the workers and students involved, and be reported. Under no circumstances may the administration monitor or video-surveil a worker or student without proper authorization or, in cases of judicial relief, without a warrant from a magistrate. Under no circumstances may surveillance policies be used to restrict academic freedom or freedom of expression in educational institutions.

**Freedom of expression in teaching and access to books**

9. Do teachers and professors, at all levels of education, enjoy freedom of expression in their own teaching? Are there any limitations imposed, such as remaining “neutral” or forwarding a particular perspective, e.g. on religious and political matters?

Freedom of expression and teaching are constitutionally guaranteed. However, freedom of expression must always be balanced by respect for other equally relevant principles, such as those of non-discrimination, respect for religious, cultural and gender diversity, and secularism. Similarly, freedom of teaching must always take place in compliance with deontological criteria related to the teacher's function and with respect for the students/learners. Every university educational institution has a Guarantee Committee and a Disciplinary Board that, based on transparent procedures and in compliance with the right to be heard/defense, intervenes in those cases that fall under the responsibility of the university or the public administration.

10. Please explain the extent to which teachers and professors at different education levels can chose school manuals and other books/resources for teaching, and the reasons for any restriction in this regard. Have any specific books/materials been banned, including from school libraries, and alternatively, is some material mandatory? If so, why?

The selection of study texts, study materials, and the definition of learning outcomes and teaching methods is the sole responsibility of the teacher. In cases where the teacher's teaching and training choices raise sensitive issues, the Guarantee Committee first, the Discipline Board later, may intervene.

**How to submit information**

Submissions should be sent electronically no later than **2 February 2024 to** hrc-sr-education@un.org, using the email title: “Contribution: Academic freedom”.

Please select and answer the questions most relevant for your agency. Kindly limit your responses to **3,000 words** and attach annexes where necessary. To facilitate their consideration, please send responses in a Word document, and in English, French, or Spanish. **Please clearly specify the entity making the contribution on the document itself and add paragraph numbers**.

All inputs received will be posted on the OHCHR website. Please indicate if you have any objections regarding to your reply being posted on the OHCHR website.