**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 with respect to 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 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** | **Turkey, Education and Science Workers Union (EGITIM SEN)** |

**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.

General provisions regarding higher education institutions are regulated in Article 130[[1]](#footnote-1) of the constitution of our country. Law No. 2547 also determines how universities will function. Both regulations are the product of the military coup of 12 September 1980. Therefore, instead of strengthening freedoms in universities, more severe disciplinary and control mechanisms have been developed. Namely, the Constitution and the Higher Education Law No. 2547 (Article 3/d) do not include the expression academic freedom, but only emphasise scientific autonomy. Moreover, Article 130 of the Constitution states that "Universities and their faculty members and assistants may freely carry out all kinds of scientific research and publications. However, this authorisation does not give them the freedom to carry out activities against the existence and independence of the State and the integrity and indivisibility of the nation and the country." The most basic principles of academic freedom have been virtually abolished. The best example of this is the dismissal of academics, most of whom are our members, who signed the declaration titled "We will not be a party to this crime". The study "Academic Freedoms in Turkey during the State of Emergency"[[2]](#footnote-2) prepared by two dismissed members of the School of Human Rights, which was founded by our dismissed members, provides very important data.

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

It is not possible to talk about academic freedom in the education system in Turkey. Any thought that is not deemed acceptable by the political power is demonised. For this reason, the dissemination of unacceptable ideas is seen as a crime and punished. However, this should by no means mean that opposition activities cannot be carried out. One of the main areas of our trade union struggle is to defend the idea of a free university for the benefit of human, society and nature. For example, our trade union called for a demonstration at the Cebeci Campus of Ankara University to protest the dismissals, but when the police refused to allow the demonstration, our academic members laid their robes on the ground to protest both the dismissals and the police blocking the entrance to the university. The police then entered the building by crushing the robes.[[3]](#footnote-3) Similarly, academics at Boğaziçi University have been steadfastly protesting for years against the rector, who was appointed against their will, and against the unlawful activities of the rector in question.[[4]](#footnote-4)

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?

Apart from the fact that there is no legal framework for academic freedom in Turkey, we can summarise the dimensions of the situation in universities through only one issue. The rectors of Turkish universities are directly appointed and dismissed by the president. Moreover, the president is also the chairman of a political party. Therefore, rectors are responsible to the president, not to the academics, students and administrative-technical staff of the universities where they work. Moreover, the excessive powers of the rectors are also used in this direction. Consequently, in de facto, the distinction between acceptable and unacceptable for the political power appears in every issue. The unacceptable are wanted to be suppressed by all disciplinary and penal mechanisms. Precarious employment is a second mechanism of pressure and control as well. The most fundamental consequence of precarious employment is that it brings with it political precarity. For this reason, academics who are in opposition or who are not considered acceptable are discriminated against in every field from their recruitment to their promotion. In addition, current opposition academics are subjected to threats such as dismissal or forced retirement for exercising their freedom of thought and expression or for their trade union activities. On the other hand, encouraging students to become whistleblowers, and students close to the political power to the point where they can directly threaten academics, eliminates the use of academic freedom and the simplest elements of academic activity.

**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.

In Turkey, universities have a legal personality but are also governed by the Council of Higher Education, which was established immediately after the military coup of 12 September 1980. Therefore, the institutional autonomy of universities is provided only for the production of income-generating works and is pretended to exist for their administrative functioning. This clearly does not imply institutional autonomy. The principle of self-governance has never found its fulfilment. On the contrary, the Turkish higher education system is fundamentally opposed to the idea of self-governance and institutional autonomy as a continuation of the military coup logic. Because the realisation of both principles will bring about the organisation of "objectionable ideas, opposition, critical mind". In this case, the issue of the police entering the university or its annexes is also very important. Legally, the police can enter the university upon the invitation of the university rector. However, the fact that the rector is responsible to the president, not to the university constituents, allows the police to enter campuses in any situation that may disturb the political power.

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

There are no such institutional guidelines. However, a small example from the disciplinary provisions for academics will suffice to illustrate that the opposite is the case.

For example, Article 53, subparagraph 6 of Law No. 2547 defines the penalty of dismissal from public office so that academics cannot become public officials again, and the act of "engaging in or supporting terrorist acts, using or making public facilities and resources available for these organisations" is recognised as a crime. However, this is a disciplinary offence and this process is managed by administrative authorities. For example, the Constitutional Court, the highest judicial body in Turkey, has ruled that the academics who signed the declaration "We will not be a party to this crime" exercised their freedom of thought and expression. However, administrative authorities and university administrations did not recognise this decision and defined the signing of the declaration as terrorist organisation propaganda. University administrations still object to the reinstatement of academics dismissed for their signatures and insist on this view. Imagine that if this or a similar situation were to happen again, that is, if academics were to express their opinions at the expense of disturbing large segments of society and the political power, this time they would be disciplined and dismissed. This is because university administrations are determined by the political power and act in line with the instructions of the political power. In short, instead of academic freedom, the control of acceptable thought is at its peak.

**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?

After the Bologna process, we are living in a period in which the qualitative is devalued but the quantitative is blessed. We are faced with a system in which every activity produced by academics is scored in different ways, and according to these scores, they are promoted in their positions and receive academic incentive allowances. However, this perspective, which focuses on numbers such as the number of articles written, ignores the problem of the quality of academic activities and has brought along problems such as unread articles, citation gangs, academic congresses organised for money, theses written for money. Therefore, in a performance-oriented system that prioritises quantity over quality, academic freedom is not encouraged, but rather promotion in the academic hierarchy and respect for the titles held.

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.

In Turkey, universities are required to establish closer relations with the capitalist circles and are acting in this direction. In all of the "reform" drafts brought to the public agenda by the political power in various periods, there have been provisions for state universities to be governed by boards of trustees and for capital circles to take part in these boards of trustees. Although the "reform" in question could not be implemented legally, it is known that de facto universities and research at universities are directly directed to meet the interests and needs of capital circles.

**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?

When you enter the campus of any university in Turkey, the first thing that will catch your eye will be the cameras. The main function of these cameras in open spaces and corridors is to identify and punish dissidents. Moreover, the online complaint mechanism of the Presidential Communication Centre (CİMER)[[5]](#footnote-5) is also used quite effectively. In cases such as academics mentioning a subject thatthepolitical power would not find acceptable in their lectures or criticising the political power, students end up complaining about the academics to CIMER. These complaints are quickly sent to the administration of the relevant university, leading to a disciplinary investigation against the academic in question. Consequently, such denunciation brings along a serious self-censorship on academics.

**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?

As you know, repressive regimes do not only eliminate freedom of thought and expression on certain topics. On the contrary, they also want everyone to say out loud what they want to hear. In other words, in addition to the prohibition of speaking, they simultaneously impose the obligation to speak. Therefore, it is not possible to talk about freedoms in Turkey while there is a ruling mind that declares everyone who does not think and speak like it as enemies and terrorists.

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?

It is regulated as a disciplinary offence to teach banned publications as reference books or to show them to students. However, academics are otherwise free to choose their source books. Of course, they undergo certain self-censorship processes. However, at the primary, secondary and high school levels of education, textbooks are printed by the state and provided to students free of charge. Consequently, teachers do not have the freedom to choose textbooks.

**How to submit information**

Submissions should be sent electronically no later than **2 February 2024 to** [hrc-sr-education@un.org](mailto: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.

1. https://www.anayasa.gov.tr/media/7258/anayasa\_eng.pdf [↑](#footnote-ref-1)
2. https://www.insanhaklariokulu.org/wp-content/uploads/2022/06/4\_IHO\_A-Report-on-Academic-Freedoms-in-Turkey.pdf [↑](#footnote-ref-2)
3. https://bianet.org/haber/police-beat-detain-expelled-academics-rallying-183536 [↑](#footnote-ref-3)
4. https://bianet.org/haber/bogazici-university-resistance-left-three-years-behind-we-are-standing-up-for-an-ideal-290174 [↑](#footnote-ref-4)
5. https://www.cimer.gov.tr/ [↑](#footnote-ref-5)