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## **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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| <b>Name of the country/entity submitting information</b> | <b>Finland/ Trade Union of Education in Finland OAJ</b><br><b>The Finnish Union of University Researchers and Teachers (FUURT)</b> |
| <b>[REDACTED]</b>  | <b>[REDACTED]</b>  |

## Questions

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### 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.

The Constitution of Finland (731/1999): Section 123. Universities and other education providers. The universities are self-governing, as provided in more detail by an Act.

Provisions on the principles governing the other educational services arranged by the State and the municipalities, as well as on the right to arrange corresponding education in private educational institutions, are laid down by an Act.

The Universities Act (558/2009):

#### Section 3. Autonomy

1. The universities have autonomy, through which they safeguard scientific, artistic and higher education freedom. The autonomy entails the right of universities to make their own decisions in matters related to their internal administration.
2. When legislation is drafted concerning them, the universities shall be given the opportunity to express their opinion on the matter.

#### Section 6. Freedom of research, art and teaching

1. While universities enjoy freedom of research, art and teaching, teachers must comply with the statutes and regulations issued on education and teaching arrangements.
  2. Teaching in the universities is public. Where justified, participation in instruction may be restricted.
2. Are academic staff, teachers, students all entitled to academic freedom? Does this differ by level of education? Please explain.

In principle, higher education teachers and staff, and students have the right to academic freedom, provided that they follow the university's statutes and regulations, study plan, and (practical) instructions.

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?

(a) Precarity of funding and work, academic hierarchy, trolling (e.g. in social media).

(b) trolling has been suggested to be added into criminal law, but so far this has not progressed. However, other points criminal law enable cases to be processed legally.

In Finland, academic freedom is especially threatened by harassment of researchers.

Academic freedom index:

### **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.

Our answer only applies to higher education. Educational institutions at the different tiers of education have not been discussed.

Autonomy and self-governance are described in several articles in the University Act. For example 1 chapter sections from 1 to 5; chapter 2 section 6, chapter 3 sections from 13 to 16, from 20 to 24 and from 26 to 28 and 30.

A safe study environment is secured in chapter 5, section 41a

The Universities Act (558/2009):

[https://www.finlex.fi/en/laki/kaannokset/2009/en20090558\\_20160644.pdf](https://www.finlex.fi/en/laki/kaannokset/2009/en20090558_20160644.pdf)

Universities are public places, no limitation on police to enter.

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

University of Helsinki: Ethical guidelines

<https://www.helsinki.fi/en/about-us/sustainability-and-responsibility/ethical-guidelines>

UEF: Guideline for teaching and studying

<https://kamu.uef.fi/en/tietopankki/students-rights-and-obligations/ethical-guidelines-for-teaching-and-studying/>

Guidance on research ethics

<https://kamu.uef.fi/en/tietopankki/guidance-and-support-in-doctoral-education/guidance-on-research-ethics/>

Aalto University **Code of conduct**

<https://www.aalto.fi/sites/g/files/flghsv161/files/2021-06/Aalto%20University%20Code%20of%20Conduct.pdf>

### **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?

One of the main challenges to the university autonomy is the funding system and the strong financial steering of the HEI by the Ministry of Education and Culture. See e.g. [Evaluation of the governance and funding practices used by the Ministry](#)

of Education and Culture for steering Finnish Higher Education Institutions (June 2023).

In Finland, the distribution of publicly competitive research funding is directed to government agencies such as the Research Council of Finland and Business Finland. For example, the Research Council of Finland is an expert organisation in science and research. They fund high-quality scientific research, provide expertise in science and science policy and strengthen the position of science and research. The Council is a government agency within the administrative branch of the Finnish Ministry of Education, Science and Culture.

The protocol for applications and evaluations at the Research Council of Finland operates as follows:

- Researchers send their research plans and applications to the Council.
- International experts from different fields go through the plans, rate them and draft review reports on them.
- The Council's elected officials examine the review reports and discuss them. Then, they decide which projects will be funded.
- The decision-makers are members of the Finnish scientific community, that is, distinguished professors or researchers in their fields. Research Council of Finland officials do not make any funding decisions.
- Political decision-makers do not participate in the Research Council of Finland's review process or decision-making.

Business Finland's code of conduct:

<https://www.businessfinland.fi/4add63/globalassets/finnish-customers/about-us/code-of-conduct-eng.pdf>

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 Finnish Code of Conduct for Research Integrity and Procedures for Handling Alleged Violations of Research Integrity in Finland 2023 (PDF)  
[https://tenk.fi/sites/default/files/2023-05/RI\\_Guidelines\\_2023.pdf](https://tenk.fi/sites/default/files/2023-05/RI_Guidelines_2023.pdf)

#### Thesis Publicity

A graduation thesis or dissertation accomplished at a public educational institution is normally a public document (Constitution of Finland, Section 12.2; Act on the Openness of Government Activities, Section 1).

The Act on the Openness of Government Activities also stipulates what information shall be kept secret. Such information includes, for example, documents that contain business or professional secrets or detailed information on endangered animal or plant species (Section 24).

If the source material used in a thesis or dissertation contains confidential material, such contents must be placed into the background material, not in the actual public thesis. The directive by the Ministry of Education and Culture for higher education

institutions (3/500/2004) is explicit in this: universities and polytechnics shall ensure that no confidential information is included in their graduation theses and dissertations and that these works become public as soon as they are approved.

As an example, the practice from the University of Jyväskylä:  
*At the University of Jyväskylä, theses and dissertations are saved in the publication archive JYX. See the instructions.*

*Regarding to Publishing policy of the University of Jyväskylä, the theses are primarily published open access.*

*If the author chooses to publish the thesis with restricted access, the information about the author and the work still remains public. When a thesis is published, the following information is transferred to JYX and is public there: author(s), title, year of publication, language, abstract, field of study, copyright and license information, the faculty and department*

*The theses with restricted access will be sent by email upon request.*

## **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?

Educational institutions are not monitored with on-site cameras or online scrutiny by public authorities. Institutions are required to have an emergency plan.

From the survey EduSafe2018 (by the University of Turku and the Finnish Institute of Occupational Health)

*The participants felt that safety at work within the field of education is either good or fairly good. However, safety culture at the schools was shown to be fragmented and unequal, and there have been no comprehensive safety management models or tools in use to improve safety. As part of the EduSafe project, a comprehensive safety management model for the field of education was developed. The model outlines the proactive safety management of challenging situations, the handling and follow-up of such situations as well as shared learning. Through the use of this model, safety management will turn into systematic, shared action with lasting results.*

[https://www.julkari.fi/bitstream/handle/10024/136842/EduSafe\\_Loppuraportti.pdf?sequence=4&isAllowed=y](https://www.julkari.fi/bitstream/handle/10024/136842/EduSafe_Loppuraportti.pdf?sequence=4&isAllowed=y)

## **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?

(University) teachers enjoy freedom of expression as long as it does not include things that could be taken to potential criminal investigation such as hate-speech.

For example, see the University of Helsinki ethical guidelines: <https://www.helsinki.fi/en/about-us/sustainability-and-responsibility/ethical-guidelines>

10. Please explain the extent to which teachers and professors at different education levels can choose 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?

Course literature usually planned in study plan/curriculum for a certain period of time, but on lecture courses etc. teachers may use literature more widely. Curriculum is valid for circa 3 years period, which is jointly prepared by teaching personal.

### **EXTRA MATERIAL:**

The European University Association has studied the autonomy of the European universities. We add here links to the main results. The Finnish system is presented in both of the Scorecards.

- The 2023 edition of the European University Association's Autonomy Scorecard, the most comprehensive yet, provides a full comparative analysis of the state of play of university autonomy in 35 higher education systems in Europe.
  - <https://eua.eu/downloads/publications/eua%20autonomy%20scorecard.pdf>
  - **University Autonomy in Europe IV: Country Profiles (I): Austria, Denmark, Finland, Germany, Iceland, Ireland, Norway, Poland, Sweden, Switzerland**
    - [https://eua.eu/downloads/publications/autonomy%20scorecard%20country%20profiles\\_batch\\_1.pdf](https://eua.eu/downloads/publications/autonomy%20scorecard%20country%20profiles_batch_1.pdf)

Here is also a research study about academic freedom and the Rule of Law.

Mäntylä, N., Autioniemi, J. & Kosonen, J. (2023). Academic Freedom and the Rule of Law. *Scandinavian Studies in Law* 69, 393-420.

[https://osuva.uwasa.fi/bitstream/handle/10024/15925/Osuva\\_M%C3%A4nty1%C3%A4\\_Autioniemi\\_Kosonen\\_2023.pdf?sequence=2&isAllowed=y#:~:text=In%20Finland%2C%20academic%20freedom%20has.and%20higher%20education%20is%20guaranteed.](https://osuva.uwasa.fi/bitstream/handle/10024/15925/Osuva_M%C3%A4nty1%C3%A4_Autioniemi_Kosonen_2023.pdf?sequence=2&isAllowed=y#:~:text=In%20Finland%2C%20academic%20freedom%20has.and%20higher%20education%20is%20guaranteed.)

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### **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.