

Innovation of the Culture of Higher-Education Institutions: the Concept of the Defender of Student Rights

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Abstract. The paper deals with the possible innovation of the environment of higher-education institutions by introducing the defender of student rights. The defender may draw inspiration for his or her activities from the institute of the ombudsman, a control body which cannot make authoritative interventions but may take initiatives or otherwise raise the awareness of undesirable treatment of individuals. The defender may also draw inspiration from the “good practice”, which takes the form of Student Guides at Masaryk University, Czech Republic. Within the scope available, the article describes the basic characteristics of the Student Guides project and mentions the general advantages of the innovation it presents.

Keywords: Higher-Education Institution, Student, Ombudsman, Violation of Study Rules, Guidance, Student Guides

1. Introduction

As young, creative people with very few obligations and a lot of energy, the students of higher-education institutions naturally tend to organise themselves for joint activities and common goals. It is not surprising that student associations are among the typical displays of a university culture adhering to democracy and academic freedoms.

Students commonly meet for joint spare-time activities (such as singing and sports), they jointly organise social events (dances) and educational events (such as professional conferences and workshops) or otherwise help their fellow students (for example by organising meetings with employers) or people in need (e.g. through charitable fundraising). In doing so, they do not require with any activity from their higher-education institution. For the students to be successful, it is often enough when the school creates a minimum material background (e.g. by providing free premises or facilities) and declares moral support for their actions.

The operation of student associations is an advantage for a higher-education institution that wishes to extend its educational, scientific and research roles with a contribution to the cultural, social and economic development of society. One reason is that student associations enable students to participate in social and cultural programmes that are perceived as part of the school itself; sometimes they even provide opportunities for further training. Furthermore, students active in associations receive an opportunity for self-fulfilment and development of soft skills. This contributes to an increased standard of the graduates' abilities. And finally, student associations have the potential to strengthen the sense of belonging to the school to which the spare-time activities are related. Those who have this feeling are more likely to view and present the respective university in a positive way.

In addition to the above activities, a student group may also operate with a view to participating in the administration of students' affairs or administration of the higher-education institution as such. For example, the four Central European member states of the Visegrad Group typically have higher-education institutions

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with academic senates as their autonomous bodies where students must be represented. Where students draw together to defend their interests, they usually concentrate on collective interests and apply political methods.²

However, students may also play an important role as the guarantors of individual student rights – protect them against actions by the higher-education institution or its employees that are contrary to the law or the principles of fairness or that otherwise unjustifiably harm student rights. The following paper is a reflection and practical example of such a student initiative.

2. From student ombudsman to student guides

Originating in Scandinavia, in the past decades the ombudsman institute extended to many European countries and countries in Asia and the Americas, mainly those that are influenced by European culture³. The ombudsman can be characterised as a non-judicial control authority with authorisation from the State to handle the complaints of individuals concerning the conduct of public authorities, usually without the power to make authoritative interventions⁴. However, he or she may take initiatives or otherwise draw attention to undesirable treatment of individuals. In some countries, the concept of the ombudsman was also transferred to a lower level – the State or some other entity having decision-making powers appoints a body supervising, for example, the status of students and protection of their rights in relation to higher-education institutions.⁵

The concept of the defender of student rights need not be set up and organised merely from above; instead, it may also be created or administered as a student initiative aimed at protecting the individual rights of students against unauthorised interference by the higher-education institution and its employees (as a rule, teachers). It follows from the nature of the studies and the status of a student that the student and the higher-education institution do not have an equal position. As a rule, the student receives higher education as a public service provided by the State; this service is subject to the rules laid down by the State itself or by the higher-education institution based on authorisation from the State. Or, as an alternative, the education is provided by a private party; however, it is common that the private provider also unilaterally determines the rules of study and related rules that the student already endorses by studying at the respective higher-education institution.

Academic freedom is borne by higher-education institutions themselves as well as their members, most often employees – the academic staff. The latter enjoy freedom of research and teaching including the evaluation of students' knowledge. Everything must obviously follow basic rules that are usually legitimately determined and declared in advance. However, by its very nature – i.e. by involving human behaviour – social organisation and its operation show certain levels of error. This may easily result in violation of the set rules, with an adverse impact on a student.

In countries with the rule of law, protection against violations of law is provided by impartial, independent courts. The legal system mostly allows students access to justice. However, it must not be forgotten that judicial protection may be regarded as an extreme remedy. By definition, the existence of court proceedings, necessarily accompanied by antagonistic attitudes and allegations, often does not lead to improvement of the relationships between the parties to the dispute. Nonetheless, litigation may be the only solution available in certain study-related situations; this is more likely in cases where the law or the rules of the institution concerned do not provide the student with any other means of protection.

For this reason at least – i.e. to prevent court disputes accompanied by the engagement of external law-protection bodies (courts) in the relationships arising inside a higher-education institution – it is appropriate that more moderate means of resolving disputes are available at higher-education institutions as places with a

² The author bases her consideration on personal experience from her own university as well as other Czech universities, and furthermore, from her previous study periods at the University of Bergen (Norway) and the University of Konstanz (Germany).

³ Cf. e.g. F. Uggla. The Ombudsman in Latin America. *Journal of Latin American Studies*, 2004. 36 (3): 423-450.

⁴ Further A. H. Rosenthal. The Ombudsman-Swedish "Grievance Man". *Public Administration Review*. 1964, 24 (4): 226-230.

⁵ Cf., for example, the Student Ombudsperson active at the University of Chicago (USA) or the Overseas Students Ombudsman established by law, which is available to foreign students at private universities in Australia.

Further K. L. Stewart. What a University Ombudsman Does: A Sociological Study of Everyday Conduct What a University Ombudsman Does: A Sociological Study of Everyday Conduct. *The Journal of Higher Education*, 1978. 49 (1): 1-22.

specific internal culture. In establishing them, it is further necessary to take into account the naturally subordinate role of the student as a member of the higher-education institution. The student does not create the rules but is rather obliged to respect them in the interest of operation of the institution. At the same time, the student has a materially unequal position by naturally possessing a smaller amount of knowledge, abilities and skills than his or her teachers.

An appointed entity – student or group of students acting as the defenders of student rights – may be the appropriate means of guaranteeing the legal status of the student in the education, science and research environment.

Detailed knowledge of the environment, with personal experience in the position of a student, can be regarded as an advantage speaking in favour of protection of student rights by students themselves. There is also an intuitively perceived tendency towards solidarity with peer students, which encourages confidence in students asking for help. And finally, students have a certain degree of independence from the school, i.e. non-subordination to the instructions of the management.

Personal experience with the environment where student rights may be violated, and perhaps even with some specific violations, may help better understand the student's situation. This may also contribute to a realistic assessment of the alleged facts or evaluation of the seriousness of certain violations. While, in controlling the number of examination dates, an employee of the faculty logically bases his considerations on statistical data, a student can also take into account his own experience with the demands of an examination and knowledge of the unsuitability undergoing a repeat examination at a time sooner than, e.g., 3 weeks following the regular date. In the absence of intervention by students, the number of announced dates might seem adequate, while in actual fact it could force a student that is not sufficiently prepared to submit to examination on a certain date under the threat of otherwise not being able to find an examination date at all.

The “harmed” students may have a stronger feeling of confidence and expect more understanding from students as colleagues than they would in relation to the administrative or academic staff. This may assuage fears about asking for advice or help, particularly in cases that are sensitive and difficult to assess impartially. It is probable that, when the average student finds himself in study difficulties as a consequence of some extraordinary event (e.g. the death of a parent), he will feel ashamed to directly ask the teacher for special conditions. What can he hope for when his results are so bad, especially if the teacher is unapproachable? However, if he tells students about his problem, then they are capable of contacting the teacher in his place. Initially anonymously, explaining the difficult conditions in the life of the student. Only subsequently, in relation to the reaction of the teacher, can they reveal that this is a student who does not have excellent study results. Nonetheless, such a student also deserves assistance in a difficult life situation.

The above independence from the higher-education institution, with the related absence of career-based relationships to its employees, may ensure that willingness to help is not biased by sympathy for colleagues or their complicated situations (which must not lead to unauthorised treatment of students) or personal (financial or career-related) dependence on a person suspected of applying problematic treatment. Finally, the action of student defenders outside the scope of the official methodology of the higher-education institution may lead to the desirable plurality of views concerning some of the steps taken by the university or interpretation of some of the rules applied. As a result, established standards may become subject to natural criticism. Criticism of the chosen methods and procedures may be an appropriate inspiration for verifying their suitability and effectiveness and may in itself contribute to optimisation of the entire system, i.e. a certain area of operation of the higher-education institution.

It is clear that there is justification for the existence of an entity to which the students of a university can turn in case of doubts regarding violations of their study-related rights. With regard to the above, it can also be considered that it is justified to entrust this role to a student or group of students. At the same time, for a greater weight of these advantages, it is desirable that the activity be managed from below – it should remain a display of the students' activities and retain its independence from the university, in terms of both personnel and methodology.

3. Student Guides at Masaryk University

Designed as a student initiative, the project of the defender of student rights arose at the end of 2007 at Masaryk University (Brno, the Czech Republic). With its 45,000 students, Masaryk University is the country's second largest higher-education institution. The project first began as an activity of five student members of the Academic Senate of Masaryk University who, as elected student representatives, were addressed by students with requests for advice or advocacy. It received support from the management of the university through encouragement and provision of material facilities. The students performed their activities under the name Student Guides.

The Student Guides team initially comprised members of only three of the nine faculties of the University. The Guides were therefore able to provide qualified guidance and help only to the students from the faculties with which they had personal experience and in those university-wide matters with which they were acquainted thanks to being active in the academic senate. After all, this was how they qualified for the work in the first place. Training in the legislation applicable to higher-education institutions and thorough knowledge of university regulations were a prerequisite for acting as Student Guides from the very beginning. As at the end of 2011, the Student Guides team consisted of 15 members and about 5 candidates for membership. As students of various faculties and thanks to specialisation in selected problem areas (e.g. study-related fees, disciplinary procedures, etc.), the Student Guides are able to cover all the necessary agenda.

In order to ensure the best possible service for the students of the university, the Student Guides also liaise with other university parties, such as the Centre for Help to Students with Specific Demands, and refer students to them in cases where they are more specifically oriented towards the particular person's problems.

In terms of organisational aspects, the Student Guides adhere to the Code of Conduct for the personnel of university guidance centres; in addition to this, they have their own statute and hence legally stipulated rules of conduct and conditions for acting as guides. Only a student who complies with certain other conditions may become a guide; however, he or she may not simultaneously operate as a teacher at a higher-education institution. The Student Guides administer their affairs independently and they also independently provide for their own professional development.

The objective of the Student Guides is to ensure that the students of Masaryk University accomplish their studies without administrative and legal difficulties. To this end, they pursue their activities in three main areas.

The first is preventive study guidance. This involves active mediation of important study-related and legal information and advice (e.g. by organising lectures, drawing attention to recent changes or frequent errors using student-friendly channels such as Facebook).

The second area consists in passive study guidance, i.e. guidance on demand. The Guides are available to students via the Internet, by telephone or in person and provide guidance on specific study-related and legal problems; sometimes they provide consultancy on how to proceed against individual teachers or the university as such (for example, concerning applications for the review of issued decisions on termination of studies, etc.).

The third area – with crucial significance – consists in action as the defenders of student rights. The Student Guides are available to students as the mediators of communication between the students and the school. Using the backing they received from the management, they can contact teachers or their superiors with requests for a remedy in less serious cases. This includes cases where the violation affects a large number of students, and particularly cases where it is not necessary to disclose the harmed person's identity.⁶

⁶ Further D. Jenne, Š. Karmazinová, V. Uzel. *Studenti radí studentům: Studentští poradci Masarykovy univerzity (Students advise students: Student Guides at Masaryk University)*. In *Vysokoškolské poradenství versus vysokoškolská pedagogika: Sborník příspěvků (University consulting vs university pedagogy: Collection of contributions)*. Prague: Česká zemědělská univerzita v Praze, Institut vzdělávání a poradenství (Czech University of the Life Sciences, Institute of Education and Communication), 2009, pp. 126-132.

As follows from the reports⁷ on the activities of the Student Guides, in the first two years of their activity they handled over 1,000 requests for advice or help. About one third of the cases required more than one consultation. In the following two years, the number of cases handled grew to more than 2,400.

Despite the fact that there were very few cases of serious violations of study rules by individual teachers or other inappropriate behaviour of teachers, their resolution had a tangible positive impact on students who were otherwise likely to end up without help. For example, we can mention the case of a student of Ph.D. studies whose work was at the centre of disputes between two antagonistic professors; the case of a teacher whose gave much worse marks for the subject to those students who had not written their final thesis under her supervision; and others.

It is often difficult to deal with cases of this kind. In cases where the inappropriate treatment comes from a teacher on whose rating the student depends in his or her studies, a direct protest is not easy. However, consultation with the students and subsequent involvement of institutionalised guidance did improve matters.

4. Conclusion

This paper is based on the general knowledge and, in particular, personal experience of the author. She is aware that she bases her discussion on considerations typical for European legal and social culture; nonetheless, she believes that some of the values concerned are could well be common to all higher-education institutions worldwide. The objective of this paper therefore was to introduce one of the possible forms of innovation of the higher-education environment.

The student defender of rights is able to offer services that complement the study environment. They do not influence attainment of the expected knowledge and skills but can contribute to a desirable course and successful completion of the studies. This is in the interest of the students and the higher-education institution alike.

The statistics available obviously do not provide information on the number of cases in which students seeking the help of the Student Guides would succeed elsewhere, whether at the study department or at a legal counsel. We also cannot ascertain whether the help of the Student Guides was of a higher quality or led to the desired outcome more reliably than would the consultation or assistance of the study department or a legal counsel. After all, we can still conclude that the existence of these activities at higher-education institutions is desirable, both because it enables the school to handle individually ascertained problems systematically and in time and also because it stresses the degree of legal and cultural development of the higher-education environment at the given school. Indeed, a higher-education institution with a lack of respect for the rights of students and interest in learning about and responding to (even minor) cases of violations would hardly welcome a similar project on its own ground.

5. References

- [1] Cf. e.g. F. Uggla. The Ombudsman in Latin America The Ombudsman in Latin America. *Journal of Latin American Studies*, 2004. 36 (3): 423-450.
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⁷ Accessible at <http://poradci.muni.cz/>.