

**PROBLEMS ASSOCIATED WITH FUNCTIONING
OF THE SCHOLARSHIP COMMITTEE**

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ABSTRACT

The main purpose of the present document is to represent the institution of scholarship committees, which basic role is to grant benefits as material aids to students and doctoral students of universities in Poland. Therefore, I would like to cover topics about procedures of setting up such committees, their legal status, structure and aspects of supervision. The legal and actual problems related to their functions and postulates aimed to change acts and internal regulations shall be discussed as well.

Key words: scholarship committee, scholarship committee of appeal, rector, student, doctoral student, university.

INTRODUCTION

The general rule expressed in art.175 par. 1-2 Law on Higher Education (the act of 29th July 2005¹) establishes that social scholarship, special scholarship for disabled and recovery are being granted by director of the

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¹ Act of 29th July 2005 Law on Higher Education

basic organisational unit², however the rector's scholarship for the best students is granted by the rector. A slight difference appears in the case when university doesn't have such basic units. In such case all of the mentioned benefits, including social benefit, are granted explicitly by the rector of a high education institute. There is only one exception to the above rule introduced to the polish law system by the act of 28 th May which novelized Law on Higher Education and some others acts.³

Novelization of "no longer in effect" act⁴ pertained to not only formalize the procedure of granting aids or to expand criteria, but mostly enable granting various kinds of benefits by scholarship committees⁵. All changes got accepted by polish academic society – thanks that the actual act recipe regulations related to scholarship committee and scholarship committee of appeal.

THE NOMINATION OF COMMITTEES

The factor which generally determines the nomination of a scholarship committee is the motion of relevant authority of student's council and doctoral student's council. In the case of submission, pursuant to art 174 par. 4 at the university which possesses their own basic organizational units, the director is delegating the powers in the range of granting the social benefits to scholarship committee, whereas the rector delegates in

² The director of basic organizational unit at university is a dean as a head of department, alternatively the director as a head of institute. It is written in art.2 par.1 p.29 Law on Higher Education which gives the legal definition.. The basic organizational unit means: the department or other organizational unit of University established in the statute ,leading at least one faculty, doctoral faculty or research in at least one discipline.

³ The Act of 28th May 2004. Amending the Law on Higher Education, the Law on higher vocational schools, the Act on student loans and credits and certain other laws

⁴ The Act of 12 September 1990 Law On Higher Education.

⁵ T. Brzezicki, Legal status and the field of working of scholarship's committees. [in:] New law on higher education in the light of student's entity , red. A. Szadok-Bratuń, Wrocław 2007, page.113

the range of rector's scholarships for the best students to scholarship committee of appeal. If university doesn't have any of such units, on the base of art. 176 "the only body authorized to delegate the power of granting social benefits and rector's scholarship is the rector".

While discussing the issue of appointing scholarships committee, one question arises : since when the body of students council/doctoral students council can submit the relevant request to the director of basic organizational unit or rector the act provides the large freedom if it comes to functioning student's organs and devolve all the rules as a matter of regulation. The objective of regulation only starts to be in force after university senate's confirmation about the accordance with the act and the statute of university. It could be speculated it is exact moment when the body of council can submit such request of appointing the committee. It should be also noticed that the mentioned request is an obligation for the director of basic organizational unit/rector to appoint them.⁶

THE LEGAL STATUS

Another essential matter related to already-constituted scholarship committees is their legal status. At the same beginning is worth mentioning that scholarship committee should not be considered as a legal body of university. Art. 60 par.1 Law on Higher Education decisively developed the rule which says that collegial bodies at university is senate and the council of basic organizational unit. On that account we should be heading the writing's standpoint and include them to the group of public administration bodies due to the nature of functioning.⁷ All above mentioned have also been confirmed in the viewpoint that "scholarship committee (...) has the same status as every public administration body with all the consequences in the range of rights and obligations of either committee or

⁶ Ibidem, page 116.

⁷ The sentence of Regional Administrative Court in Bydgoszcz – 6th December 2006., II SAB/Bd 55/06, CBOSA.

student, as proceeding's party."⁸ In contrast - the committees should not be involved into organs of institutional character, as they are not competent to award any kinds of material aid benefits regulated in the law, but as it is pointed at the beginning, they are only given that from the monocratic organs of university (the director of basic organizational unit and rector).⁹

ADMINISTRATIVE COURSE OF INSTANCES

All the above statements give us the right to use some specific rules in the system of administrative course of instances. The first one is the situation while committees are working as a first instance body– committee of basic organizational unit, and as an appeal organ as well- scholarship committee of appeal. There is also a possibility for scholarship committee to work only as a first instance organ, while the appeal organ is represented by the rector. A contradiction might be observed that the first instance is led by the director of basic organizational unit and the second instance organ is the scholarship committee of appeal working on authority of the rector. In the case of rector's scholarship for the best students either the first and second instance organ is scholarship committee of appeal legalized by rector. The first regulation may be considered a little bit disputable in the light of the fact, that the issue can be solved in the first instance by the organ which is literally defined as an "appeal". However, as P. Danczak said, it can be simply overcome just by renaming the committee, ex. school commission.¹⁰ Trying to modify above situation in other way we can accept that the first instant organ is rector, whereas the application form needed to reconsider the issue should be submitted directly to scholarship committee of appeal. In contrast, the situation when rector is second instance organ and scholarship committee of appeal works as first should never happen in reality.

⁸ The sentence of Regional Administrative Court in Łódź -21st February 2008, III SAB/Łd 60/07, CBOŚA.

⁹ P. Dańczak, *Administrative decisions in individual cases of students and doctoral students*, Warszawa 2015, page 196.

¹⁰ *Ibidem*, page 199.

Practically, it is possible to distinct mixed situations, so only few directors of organizational units transfer their competitions to scholarship committees. The presented solutions make it easier to adapt exact regulation to the needs of particular organizational unit,¹¹ which can depend on the amount of total students and the amount of students applying for social benefits.

STRUCTURE

The next important issue connected with the function of scholarship committee is their structure. In accordance to art. 177 par. 1, the members of scholarship committee and committee of appeal are chosen from students delegated by the appropriate organ of students council and universities' employees, with the only reservation : the students must be majority in that composition. The law doesn't clarify the scale of such majority in the committee, regardless the main purpose seems to be clearly understandable: providing the decisionmaking to students party¹². Personally I consider that statement highly problematic.

First of all that can make realistic concerns of partiality in the case of examining and voting by a member of committee – student deciding about other student application, who both can be academic friends. Secondly, in the matter of quite complicated and doubtful situation a student might not have enough experience and knowledge to hand over binding decision. Talking over the first problem we should constantly pay attention on the fact, that rules of administrative proceeding have established the institution which should fight against bias – in the best perspective: will not allow that to ever happen.

The next issue worth mentioning is the possibility of excluding the member of collegial organ in the procedure of art 27 par 1 code of administrative proceedings. Such member can be easily excluded under the law

¹¹ Ibidem.

¹² D.Dudek [in:] Law on higher education. Comment. , red. M. Pyter , Warszawa 2012, page 913.

on the base of any circumstance included in art 24 par 1 and as a consequence of the request of the party, member of collegial organ or public request based on such criteria as “rational doubts of fairness” on the basis of art 27 par 1 clause 2 due to art 24 par 3. Security of disinterest and respect for the main basic rules are not completely realized in practice despite the potential security provided by codex. When it comes down to scholarship committees and scholarship committees of appeal such reasonable requests about excluding the member- technically the student of the commission, could simply lead to the occurrence described in art 27 par 2 code of administrative proceedings.

As an effect there would be lack of essential quorum and the case should be obligatory resolved by higher organ than organ unable to make the decision as it is. Such proceeding due to excluding procedures and other formal activities could have results in prolixity.

The second vital problem related to activity of scholarship committee is the substantial lack of experience of committee members – students, especially in making decisions, which almost constantly have essential influence on awarding or refusing material aid benefit. Such situation in most cases manifests in two kinds of scholarships : social one and rector’s scholarship for the best students.

To say more about the social scholarship, from one side the committee needs to deal with such simple issues as counting income per person in student’s family what is made on the basis of submitted documents. On the other hand an organ might have a problem in the matter of complex cases, where comes into play such terms as “income earned”, “income foregone” or “income from farming”. Identical situation has place in rector’s scholarship for the best students, which touches the problem related to evaluation of achievements in science, art and sport fields, especially made by the committee’s member who often doesn’t have anything in common with such success. Regrettably the internal regulations of granting material aid benefits are not constructed detailed enough to simplify decision process.¹³

¹³ K. Mania, Material aid benefits for students from the point of code of administrative proceedings. Selected problems. [in:] ABC of administration. Volume IX, red. S. Fundowicz, P. Śwital, B. Składanek, Radom 2015, page 48-49.

METHOD OF FUNCTIONING

Law on Higher Education does not regulate the method of functioning of scholarships commissions, neither does establish the length of their cadence, number of members or decide who should be nominated for chairman position. All of the above aspects are the matter of regulation for each particular university, as it is said in art. 186 – the main rule of passing detailed regulations of material aid benefits. Referring to the cadence, it seems to be clear that its length – considering the fact that the body of student government indicate members (students as well) ought to be equal to the length of student government's cadence (in both-executive and posing nature). The problems with the number of committee members might be analogous examined as in the case of the number of scholarship committee in basic organizational unit. First and foremost it should take into account the workload as a result of general students amount applying for benefits and seasonally, the new academic year beginning, when the number of instituted proceeding about scholarships and various benefits is the biggest¹⁴. If it comes down about the person conducting committee's work, we cannot really unequivocally state if the decision about election of the chairman or vice-chairman is in the hand of election' body or sole committee and, as well, who should be such leader.

Frankly I can admit that to provide continuity, effectiveness and some kind of professionalism such function should be performed by salaried worker, not student (because of the reasons mentioned above), who should be nominated on the first committee meeting by all the members. However, that circumstance does not really matter as the role of the chairman or entitled vice-chairman usually is limited only to voting or signing decisions.¹⁵

¹⁴ J. Pakuła, Material benefits aids for students. Handheld comment. Samples of jurisdictions. Toruń, page 24.

¹⁵ D. Dudek..., page. 914.

Moreover, he doesn't even have a conclusive vote (so much needed) in the situations of equal number of votes. It needs to be also noticed that scholarship committees are entities operating socially.¹⁶

SUPERVISION

In attempt to help scholarship committee works in all their expanse, the legislator performed the special kind of supervision. Art 177 par. 5-6 standardized the rights of the leader of organizational basic unit and rector. This genre of supervision is based on legality criteria, that is: compatibility committee's decisions with legal acts and regulations of material aid benefits¹⁷. It ought to be added that the object of such control can be either a positive or negative decision for students.¹⁸ The procedure of supervision may consist of two general steps. The first one is finding out if scholarship committee infringe the law and the assessment of such infringement¹⁹. The next step is going to be concerted on repealing a defective decision. To say more about the decision of supervising body, should be admitted without any doubts that these rules as creating completely separated procedure needs to be followed by the regulations of administrative procedure, mainly art. 104²⁰, and released in the form of administrative decision.

CONCLUSION

The purpose which legislator was aiming for in the novel in 2004 as well as during entering Law on Higher Education act was creating the consistent and efficient system of material benefit aids. One of its element is setting scholarship committee's institutions. Looking through the prism

¹⁶ M. Kubiak [in:] Law on higher education. Comment, red. W. Sanetra, Warszawa 2013, page 413.

¹⁷ Ibidem, page 413.

¹⁸ J. Pakuła, Supervision of scholarships committee's functioning [in:] Actual problems of science and higher education Toruń 2013, page 231.

¹⁹ Ibidem, page 233-235

²⁰ Ibidem, page 231.

of twelve years of their functioning at the universities, we should reach one positive and one negative conclusion. In the matter of the first one, the aspect of scholarships committee's activity strongly affects on the rule of the speed and simplicity of proceeding. There is no doubt that commissions consisted of a dozen or so people would much more expeditiously and faster deal with applications of material benefit aids. The second one – this time negative- conclusion is rising from the matter of committee's structure which usually gathers students and doctoral students. Such privilege is many times pointed out as the most often reason causing infirmity of all the system, especially in the context regarding lack of impartiality and transparency while giving out decisions. There is no choice but to say, that legislator ought to take up the possible fastest works leading to eliminate signalized problems. So the universities should renew requirement's criteria for students and doctoral students planning to apply for committee member's seat. It seems to be essential for decisive process about material aid benefits.

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