

IN THE STUDENT COURT OF STELLENBOSCH UNIVERSITY

In the matter between:

Mr JD Blanckenberg

Applicant

And

**The 2014/2015 Student Representative Council
of Stellenbosch University**

Respondent

Declaratory order re: meeting held on the 10th of August

Mr Blanckenberg (“the applicant”) has approached the Student Court, asking for a declaratory order in terms of a meeting held by the Student Representative Council 2014/2015 (“the respondent”) on the 10th of August.

The Student Court acknowledges that it has jurisdiction in this matter, as alleged by the applicant, in terms of section 64 of the Student Constitution (“the Constitution”). However, it should be noted that the Court does not recognise the use of section 51 of the Student Constitution to establish standing, as such provision specifically relates to Student Parliament.

The issue in dispute is the meeting held by the respondent on the 10th of August, and the constitutionality thereof.

On the question of whether the SRC may hold such a meeting, section 39 of the Constitution states that:

Adequate notice of an ordinary Student Representative Council meeting is given to members at least two (2) University days before the meeting and states at least –

- (a) the date, time and place of the meeting; and
- (b) the complete agenda.

It is clear from the applicant’s submissions, and has been conceded by the respondents themselves, that such meeting was not validly called. The respondents admit that the meeting was “unconstitutional” and that it is consequently of no force and effect, with which the Court agrees.

On the point made by the respondents that it is within their constitutional mandate to call an extra-ordinary meeting, the Court has to however disagree. There is no evidence in the Constitution of such powers being given. The only power that the respondent has in this regard is to call a normal SRC meeting, wherein the requirements set out in section 39 of the Constitution must be abided by. A failure to follow these procedures results in an inevitable lack of transparency as mandated by section 41, and such behaviour cannot be condoned.

It should also be noted that the Court considers making a declaration on this point to be of particular importance considering that in March 2015 Student Parliament issued a warning to the respondent about this exact same behaviour, and the inappropriateness of holding such a meeting and excluding the members of the student body from participating, which ultimately goes against the democratic values of transparency.

In that instance, Student parliament orders that the respondents cease and desist from holding informal meetings, and that official SRC meetings be called in the future.

The Court thus feels, especially given a pattern of behaviour, that it is necessary to declare such “informal” or “extra-ordinary” meetings to be invalid and unconstitutional, and warn the present and future Student Representative Council members that such meetings are impermissible and unconstitutional.

However, on the point of constitutional amendments raised by the applicant in points 7 and 8 of his Notice of Motion, the Court declines to deliver an opinion as the process by which such amendments may take place is clearly set out in the Constitution. It has already been declared that the meeting held was of no force and effect, and thus any possible amendments that may have taken place are irrelevant to the present matter.

Additionally, this Court declines to deliver an opinion on any possible violation by the respondents of the SRC code of conduct. In terms of section 60(a) the Student Court has the power to:

- (a) give an interpretation, or to confirm the interpretation of a party before the Court, regarding –
 - (i) this Constitution; or
 - (ii) any empowering provision in terms of which a student body or a member of a student body exercises power.

In light of this provision, we feel there are far more appropriate bodies with whom to raise such questions and it is within the applicant’s discretion to follow up on such a course.

Herbig D (Fischer K; Gasela A; Potgieter J; Van Rensberg D concurring)