



STUDENT COURT

18 September 2013

Advisory opinion: Whether section 92 of the Student Constitution is compatible with section 41?

MAJIEDT C (Rive LF, Van Heerden M and Van Zyl CE concurring)

[1] On the 12th September 2013, the court received an inquiry by Mr Jonno Blanckenberg requesting whether section 92 of the Student Constitution (hereinafter “Constitution”) requires that the election of the executive committee of the Student Representative Council (hereinafter “SRc”) requires that the election of the said committee should be transparent according to section 41 of the Constitution.

[2] Section 91 of the Constitution states:

91 Election of the Student Representative Council Chair

- (1) After the validity of the election results is confirmed in terms of Schedule 1, the Election Convenor(s) convene the first meeting of the newly elected Student Representative Council.

Section 92 of the Constitution states:

92 Election of the rest of the Student Representative Council Executive Committee

- (1) After the election of the newly elected Student Representative Council Chair, under the chairpersonship of the Student Representative Council Chair, the newly elected members elect the other members of the Executive Committee by means of a positive vote.
- (2) Any newly elected member of the Student Representative Council may, subject to section 24, make him or herself available for election for any of the remaining positions on the Executive Committee.
- (3) Should the newly elected Student Representative Council so choose, the Executive Committee may also be elected during a later Student

Representative Council meeting, on condition that the Executive Committee is elected not more than one (1) month after the Student Representative Election results are announced.

Section 41 of the Constitution states:

41 Transparency‡

- (1) An abbreviated agenda, which states at least all the points on the agenda, as well as the date, time and place of the meeting, must be made available to all students at least two (2) University days before each Student Representative Council meeting.
 - (2) Any student, or any other person invited by the Student Representative Council, may attend Student Representative Council meetings.
 - (4) The Chair can rule the discussion of a specific point on the agenda *in camera* if he or she believes it to be in the best interests of students, provided that –
 - (a) the Chair must do it before the agenda is set;
 - (b) the point must still appear in the agenda and abbreviated agenda;
 - (c) the discussion of the point still be minuted, the record of which need only be made available internally to the Student Representative Council; and
 - (d) the Student Representative Council can decide to overturn the decision of the Chair.
- [3] The question is whether the election of the Executive Committee of the SRc should have to take place during a SRc meeting. The election of the SRc Chair should however take place during the first meeting of the newly elected SRc.¹ Consequently, section 92 states that the election of the Executive Committee should take place after the election of the newly elected SRc Chair.
- [4] Does section 92 imply that the election of the executive members of the SRc should take place at the SRc meeting in terms of section 91 or an ordinary SRc meeting?
- [5] If the remaining members of the executive committee are to be elected at the same meeting as the SRc chair, The wording of section 92(1) of the

¹ Section 91.

Constitution should explicitly indicate or imply that the election of the Executive Committee of the SRc should take place during the SRc meeting in terms of section 91. I am of the opinion that section 92(1) does not explicitly state nor imply that the election of the Executive Committee of the SRc should take place during the SRc meeting in terms of section 91 or a SRc meeting.

[6] However, section 92(3) should be understood as to supplement section 91. As indicated above, section 91 states that the SRc Chair should be elected at the first SRc meeting of the newly elected SRc. Section 92(1) starts off by saying, "After the election of the newly elected Student Representative Chair..." as I already indicated, I do not believe that section 92(1) supplement section 91 and therefore section 92(1) refers to a different time and place within which the election of the Executive Committee of the SRc should have to take place. However the wording of section 92(3) indicates that the election of the Executive Committee of the SRc may and could also take place at the said meeting in terms of section 91 or at a later SRc meeting.

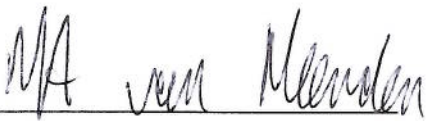
[6] To sum up, section 92(1) does not state that the election of the executive committee of the SRc must take place during an SRc meeting in terms of section 91 or a SRc meeting. However section 92(3) implies that the election of the Executive Committee of the SRc could and may take place at the said meeting in terms of section 91. Should the newly elected SRc so choose, the election of the Executive Committee may also be elected during a later SRc meeting, on condition that the Executive Committee is elected not more than one (1) month after the Student Representative Election results are announced. This would ensure transparency in terms of section 41 in the application of section 91 and 92(3).



Cerwyn Majiedt



Louise Rive



Marc van Heerden



Elize van Zyl