

THE LEGAL ASPECTS OF HIGHER EDUCATION IN THE REPUBLIC OF MACEDONIA AND THEIR IMPLICATIONS ON TEACHING AND LEARNING

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Abstract

In this paper, the authors analyze the legal and legislative aspects of higher education in the Republic of Macedonia (RM) and their implications in the teaching and learning process. In this regard, the paper will address the issue of the legal definition of the structure and content of study programs as well as setting the legal criteria for advancement in teaching that is the minimum number of publications published in specific journals and types of magazines. These issues are analyzed in the light of university autonomy guaranteed by the Constitution of the Republic of Macedonia. Research component of the paper aims to seek adequate answer to the question of to what extent such legal provisions contribute to the learning process more efficient and teaching based on the active participation of students and the creation of possible learning outcomes that match their needs. Working on three key approaches: theory, legislation and practice this paper tries to bring concrete findings on the difficulties of implementing legal solutions by the professors in their academic settings and to provide appropriate suggestions and recommendations about some of the most rational legislation solution in this regard.

Keywords: University autonomy, legal definition, teaching, learning

Introduction

There have been many reforms in the educational field in Macedonia recently concerning different aspects and aiming at moving towards more European oriented education, but the changes of the Law on Higher Education have caused the greatest polemics

and debate among legal experts and academic staff who considered the Law as directly interfering into University autonomy.

The legal aspects of Higher Education in the Republic of Macedonia and Their Implications on Teaching and Learning

University autonomy is guaranteed by the Constitution of RM, which in Article 46 states: "University autonomy is guaranteed. Conditions for the establishment, exercise and cessation of activity of the university, shall be regulated by law" (Constitution of Republic of Macedonia, Official Gazette of RM No. 52 of 22.11.1991). As perceived in RM, university autonomy is not an absolute constitutional category, as defined by the legislator, i.e. the Law on Higher Education (2008 and its amendments from 2009, 2010 and 2011). We believe that the legal definition of the university autonomy is given in Chapter 2, Articles 11, 12, 13 and 14 of the Law on Higher Education, respectively-content and the protection of the autonomy, academic freedom, autonomy in management and inviolability of university space. We consider that these four legal articles comprise the fundamental (basic) content of university autonomy since it is not allowed to limit the work of the University by the founders or bearers of professional supervision. If there are any restrictions, they must be reasonable and legitimate because they represent the minimum necessary university autonomy in the country.

Article 11 regulating the content and the protection of the autonomy, notes that Universities and units in their composition, as well as the independent Higher Education institutions conduct their activity on the principle of academic autonomy. Academic autonomy guarantees the intellectual freedom for members of the academic community and the creative nature of research and educational process, as the top values and capabilities. Autonomy of the university includes academic freedom, management autonomy and inviolability of autonomy. Higher education institutions have the right to initiate proceedings before the competent court for the protection of the autonomy of the university (Law on Higher Education, Official Gazette of RM No. 35 of 14.03.2008).

Article 12 legalizing academic freedom, notes that this freedom includes:

Freedom of scientific research, artistic creation, mediation and application of knowledge; Self-regulation of the internal organization and operation of statute in accordance with the law; Freedom of teaching, the implementation of scientific research, the arts, or art and applied activity, including the freedom of publication and public presentation scientific results and artistic achievements; Freedom of study, determining the rules of studying forms and types of educational activities and review of students' knowledge; Freedom of choice of study programs and the content of individual items, as well as the preparation of textbooks

and other teaching aids; Freedom of choice of the method of interpreting the curriculum and artistic content; Determining the conditions and criteria for studies of first, second and third Cycle, as well as other types of education; The preparation, adoption and implementation of research programs and applied work; Providing professional, academic and scientific titles in accordance with the law, award and honorary academic titles; Determination of conditions, criteria and procedures for academic, scientific, teaching and associate titles, and selection in academic, scientific, educational and associate titles (Law on Higher Education, Official Gazette of RM No. 35 of 14.03.2008).

Article 13, which regulates autonomy in management, notes that this autonomy is expressed in: planning, implementation and development of higher education activity; Establishment and regulation of internal organization; Adoption of the Statute or Rules of the unit; Selection, appointment and revocation authorities in accordance with statute; Availability of approved funds, and own revenues; Establishment of funds and the establishment of other organizations own revenues, donations and other sources for the purpose of performing higher education, research, publishing and applied activity; Management and use of property in accordance with the purpose; Deciding on forms of cooperation with other organizations; Associating and associating relevant organizations and forums in country and abroad; Achievement of international cooperation, contracting and participation in international organizations and associations, and deciding on other rights under statute, i.e. rules of the unit (Law on Higher Education, Official Gazette of RM No. 35 of 14.03.2008).

Article 14 sets the inviolability of university space and states that the area of the universities and independent Higher Education institutions is inviolable. Police and other security authorities cannot enter this area without the consent of the Rector or Director or person authorized by them, except for prevention of committing a crime directly ahead or initiated retention crime perpetrator, as well as in the event of natural and other disasters (fire, flood, etc.). (Law on Higher Education, Official Gazette of RM No. 35 of 14.03.2008).

So, in this context, the question is whether the scope, content and the reach of university autonomy mean complete exclusion of state bodies in the activity and operation of the university itself. To address this question, we should bear in mind primarily the fact that there are no two identical constitutional models of university autonomy in the countries of the world. Different countries do so with the constitutional guarantee of the autonomy of the university with a different intensity, although there are also other models.

In this regard, for example, the Constitution of the Republic of Kosova (Constitution of the Republic of Kosova, 15 June 2008), does not have the word "university autonomy" nor the word "university", however, guarantees academic freedom, with the Higher Education Act of 2004, which does not define academic freedom, but makes further definition by the judiciary (meaning that there is no constitutional or legal definition of the subject, but it is up to the judiciary and constitutional judiciary to define it). In our opinion, Kosovo's example is a typical Anglo-Saxon type of protection of the autonomy of the university, which does not leave the definition of autonomy to the legislature or the executive, but to the judiciary as an independent authority which by way of case law system will build the definition of university autonomy in the Republic of Kosovo.

In early 2012, some professors and senators of “St. Cyril and Methodius University” in Skopje, presented the initiative to the Constitutional Court of RM to assess the constitutionality of several dozen articles of the Law on Higher Education. Therefore, at the invitation of the Constitutional Court to the SEE University, our colleague Jeton Shasivari as representative of the University on 15 March 2012 took part in the preparatory session of the Constitutional Court of RM, whereby he presented the views of the SEEU to the contested parts of the Law on Higher Education. The following are some of the views presented in this session of the Constitutional Court.

Firstly, on the issue of determining the criteria about who can be the mentor of doctoral thesis, the determination of the composition of the committee and the context definition of doctoral study program of studies (Article 96 of the Law), it was pointed out that those issues were under the jurisdiction of the university and were not the legislator’s issues. In other words, these legal decisions mean making a prejudice to the autonomy of the university and are not reasonable because they provide criteria and not conditions as prescribed by the constitution, because the word “criteria” is narrower than the word “condition”.

Secondly, on the question of whether it is a violation of the university's academic autonomy if the legislature and not the university and his bodies, define the structure and content of study programs, as well as the relationship between the compulsory, elective and free elective subjects (Article 99 of the Law), it was pointed out that these legal decisions meant interference in university autonomy because those issues fell within the fundamental content of university autonomy because they represent minimum necessary university autonomy in the country as defined by Articles 11, 12, 13 and 14 of the Law.

Next, and the most important for the purpose of this paper, on the issue of the law setting the criteria for selection in scientific teaching titles, entering the details through the minimum number of works to be published in a certain number and type of scientific journals (Article 125 of the Law), it was indicated that these legal decisions meant interference in university autonomy for two reasons. First, those issues fall within the fundamental content of university autonomy as defined by Articles 11, 12, 13 and 14 of the Law, and second - the legislature interferes with university personnel autonomy by narrowing the freedom and university space to showcase and evaluating its specifications and differences in relation to other universities.

Finally, regarding the re-election of the Full Professors in the same title, after which they establish labor relationships indefinitely, keeping eternally the title Full Professor (Article 134 of the Law), it was emphasized that those Full Professors who had acquired their title before the legal amendments of 2011 and in accordance with then applicable law employed as full time (principle of entitlement), should not be subject to re-election for the same title as this is contrary to legal certainty or prohibition of retroactive validity of laws and other regulations predicted with Article 52, paragraph 4 of the Constitution and the principle of the rule of law as a fundamental value of our constitutional order specified in Article 8, paragraph 1, item 3 of the Constitution.

Starting from the theoretical statement that the Constitution is what the constitutional court says, we consider that the Constitutional Court's decision on these and other legal issues, will have a very great significance in terms of university autonomy and in the learning and teaching process itself in universities in Republic of Macedonia.

SEEU has brought a Rule on promotion to the teaching-scientific, the academic, the academic professional and the associate titles based on article 132, paragraph 8 of the Law on Higher Education with appendices prescribing the criteria for all titles. In practice, this means that besides the regular teaching activities and administrative duties related to grading, administering exams, finalizing and reporting grades, as well as maintaining the high quality of the teaching and learning process that the University is aiming at, the academic staff is faced with the pressure of doing research and publishing the results of that research in strictly prescribed scientific journals. Because of the changes in the Law, it seems that attending and presenting at conferences has become a very successful business: teaching staff from universities around the world fight for collecting points.

There are a few questions that have aroused from this trend: Does quantity (number of points) guarantee quality (effective teaching practices)? How do students benefit from this?

How does research influence the everyday teaching practice? With this regard, a perception already exists, especially among language teachers, that there is a gap between research and practical teaching that happens in the classroom.

“Theoreticians who do not appreciate the realities of classroom teaching cannot really expect to be popular amongst those who spend most of their time there, but likewise teachers who say that their lessons are neutral and not influenced by any particular theory are perhaps just not looking hard enough or admitting what theories or research are in fact influencing their teaching, albeit unexpressed”. (Hannam, 2012, p.26).

The answers to these dilemmas are very relevant nowadays when educational reforms are taking place all around Europe and Macedonia following the guidelines from different bodies within European Commission (European University Association, 2003):

“Universities need to communicate the key role of research in underpinning university autonomy and guaranteeing academic freedom, as an essential element in undergraduate curricula contributing to high quality teaching, improved employability and enhancement in knowledge transmission” (p.3).

Nonetheless, it seems that teaching and learning remain to be the main role of universities: “Continuous improvement of quality of teaching and learning is a core task of universities”. (European Union, 2010, p.8). From this principle, the same document points out the necessity for student-centered learning:

“Universities have begun to describe their modules and study programs not only in terms of inputs, such as teaching hours or text books, but also in terms of outputs, i.e. learning outcomes: what students know, understand and can do

Therefore, with this study, besides discussing the theoretical points related to defining University autonomy and its violation, we aimed to tackle some more practical issues directly linked to the educational process and find out if the amendments to the Law on Higher Education in RM are in correlation with the good teaching practices as defined by literature, or more concretely, whether attending conferences and gathering points influences the teaching and learning process and what that influence is.

In order to find out the answer to the question whether doing research and presenting or publishing it influences the quality of the teaching process that further has an impact on student learning, we have chosen to examine one component of good teaching practices recommended by the literature for having positive effect on student learning at tertiary level (Barr& Tagg, 1995, Fry, Ketteridge, Marshal, 2003, Kember, 2007) and that is continuous assessment.

In the 1970s, Marton (1975, Fry, Ketteridge, Marshall, Eds. 2003) investigated the interaction between a student and a set of learning task and concluded that students' approaches to the tasks (their intention) determined the extent to which they engaged with their subject and this affected the quality of outcomes. These were classified as deep and surface approaches to learning. One of the recommendations of these authors for quality teaching related to pre, during and post assessment as the opposite from the traditional practice of basing the course grade on the final exam only.

The important role of assessment has also been pointed out by Kember (2007) in his book, *Enhancing University Teaching*, where he states that one of the principles of good university teaching is that, "assessment must be consistent with the desired learning outcomes and eventual student needs if these are to be achieved. Assessment should, therefore be authentic task for the discipline or profession". (p.26) That kind of assessment can only be achieved if it is continuous and consisting of more components, such as discussions, projects, debates, case studies, quizzes, etc. and not only one final written exam.

The above mentioned criteria for quality assessment were selected as indicators whether a certain professor applied the principles of good teaching or not. If somebody bases the course grade only on the result of the final exam and does not pay attention to any other components that are so relevant for active student learning, then he/she does not deserve the attribute of a good teacher, no matter how good researcher he/she might be and no matter of the academic title he/she has. Or, more concretely, the questions this study was aiming to find answers to were: What is the current situation at SEEU (all five faculties) with assessment? What is the relationship, if any, between quality assessment (as defined in literature and as one of the pre requisites for ensuring good teaching and learning) and publications?

A questionnaire was created in order to examine the assessment methods at University level so that information could be obtained about the professors who really follow the progress of their students by taking care of the different levels of learning.

Our assumption was that better professors, that is, those who were engaged in research more, would have to be more successful in applying continuous assessment through quizzes, projects, case studies, presentations and not only base their course grade on the final exam result. Therefore, the questionnaire aimed to provide data about whether professors used other assessment methods, asking for the concrete names of those who did that so that we could compare if it corresponded to their academic title and prove or reject our hypothesis. Students were also asked about how satisfied they were with the way professors assessed their knowledge and how they thought this could be improved.

We believed that by analyzing their answers we could not only find out more about the ways of assessment at the SEEU, but also see students' level of satisfaction with it and their suggestions for improvement.

Then, in order to find out what the other side (the professors) think about the provision in the Law that prescribes exactly the number of points and the type of journals in which to publish, as well as their general view on attending conferences and its impact on teaching/learning, we conducted informal interviews with 6 professors from different Faculties.

Finally, we checked the University website where all the information about research for every member of staff can be found to see the quantity and the quality of the research the professors did in terms of what complied with the legal requirements. The aim of this methodological tool was to examine whether the names of the professors who were identified from student questionnaire as being quality teachers corresponded with those who were most successful in attending conferences and publicizing in international journals.

The information gathered in these three ways was supposed to give a clearer picture on what the purpose of this research was: to survey the general implications on the Law of Higher Education in the Republic of Macedonia to the teaching and learning process; whether there are any and if yes, what they are.

The sample consisted of a total number of 95 students from the four Faculties: Business Administration – 21, Law – 27, Computer Sciences – 27, Public Administration and Political Sciences – 20. Students from the Faculty of Languages were not included in the study, since they are the only ones who do not take courses from the Language Center where all other students were drawn from the ESP 2 courses (English for Specific Purposes). These courses are obligatory for students of all Faculties and the second course is offered in the fourth semester. This means that students have had chances to meet many professors in the previous 3 semesters and are already familiar with their way of teaching and assessment.

At all English courses offered by the Language Center, students are mixed in terms of language of instruction. Students from different cultural and ethnic background study together and they are approximately at the age of 20 to 22, both genders, mostly from Albanian and Macedonian nationality and a few Turks and Roma. The majority of students come from Macedonia, but there are some from Kosovo and Serbia.

This student body was not completely unified, in terms of students' socio economic and cultural background but that was not relevant for the aim of the study and the information

they were asked to provide. Their length of study at the SEEU was quite balanced, as well as their experience with the teachers.

The group of 6 teaching staff for the informal interview was selected based on the ground that there were representatives from the four different Faculties and with different academic titles: 3 Assistants, 1 High Lector, 1 Assistant Professor and 1 Full Professor.

There were 100% positive answers to the question whether professors at the SEEU use different forms of assessment like quizzes, case studies, projects, presentations and not only mid-term and final exams. But when asked to list concrete names by Faculties, the result was as follows: LC, almost 100% of all; CST - 100%, BA – 80% (1 full professor), Law – only two assistant named and no full professor and PAPS – 1 assistant and 2 assistant professors.

The results were also very high on the question about students' level of satisfaction from assessment methods used by their professors (only 3% negative answers, all from Law) and they indicated that the majority of teaching staff at the SEEU do apply continuous assessment when evaluating their knowledge.

There were also some interesting comments stated by students when asked to give their opinion on how assessment can be improved and they are summarized with the following points:

- 1) More grading components (those who attend classes regularly want to be given credits for that)
- 2) More opportunities provided for students to express their opinion
- 3) More practice, discussing cases (Law students)
- 4) Movies, video clips, not only books all the time
- 5) More communication between students and professors, more interaction
- 6) Evaluation of the exam based on how students have interpreted the subject and not how well they have memorized the definitions from the book
- 7) No evaluation based on exams only.

On the question about the benefits of attending conferences and publishing papers, all interviewed professors stated that they were necessary for being updated in the field, for establishing contacts with colleagues, exchanging opinions, finding ways to solve problems, but at the same time they were also aware that it had become a very successful business internationally.

The other theme, around which the interviews were conducted, was about the influence of conferences and papers on the teaching. The teaching staff was again almost

unanimous (only the LC teacher did not share everybody else's view) that it had no influence on teaching, but on the contrary, teaching suffered because of preparations for the conferences and their attendance. They further thought that teaching and research were two different aspects that should not be mixed. Teaching was needed for research, but not the other way round - research did not influence teaching. Only the LC teacher found conferences beneficial for the teaching because they were places where some new teaching methods and techniques could be learnt and then applied in classroom.

The website, where all information about number of publications and research done could be found, showed considerable research activities of the staff, with the exception of the LC teachers, who had the least publications of all other teachers at the SEEU.

Conclusion

The issue of amendments to the Law on Higher Education in RM in recent years reveals a strange phenomenon of “legal conflict” within the content of the law itself. So depending on changes in political power in the country, the flow of legal reforms in higher education is made without the involvement of university academic staff. Therefore, such reforms bear itself the feature - state bureaucracy in higher education, and lack the necessary democratic spirit because they do not hold an account for the continuity of the reform process in higher education in the country. As it became known, this is characteristic of the amendments to the Law on Higher Education of RM in 2011, as they put an internal conflict within the same law for reasons that have not considered the basic content of university autonomy as defined in Articles 11, 12, 13, and 14 of this Law, that have been adopted much earlier, i.e. in the period 2000-2001.

With regard to the implications of the legal framework in the country to the teaching and learning process, manifested through the use of different assessment methods as a prerequisite for quality teaching and measuring the influence of the legal requirements, generally speaking, we should be satisfied with the assessment methods used at the SEEU. Further on, if continuous assessment is applied successfully and grades are not based on the final exam only, as indicated by this study, the conclusion is that there is quality teaching at our University.

From students' answers, it is also clear that some improvement is needed with the senior academic staff especially at study and theory oriented Faculties (Law and PAPS) compared to more skills (or practice) oriented Faculties (CST, BE). Students pointed very clearly that they would prefer some changes in the ways professors from these Faculties evaluated their knowledge and suggested concretely what the changes should be: transferring

knowledge into practice by working on cases, by being engaged in discussions and by exchanging opinions with professors and colleagues.

What students ask for is in line with recommendations from literature: “What the student does is actually more important in determining what is learned than what the teacher does” (Biggs, 1993, cited in Fry, Ketteridge, Marshal, Eds. 2003, p. 21). It also corresponds to what we, in this study, consider as a good teaching practice and is related to the ways of assessment teachers employ. Learning requires opportunities for practice and exploration, space for thinking or reflecting and for interaction with others and learning from and with peers and experts.

The main purpose of the practical component of this study was to examine if there is a relationship between research for publications and conference presentations and good teaching, with the first component representing the Law on Higher Education and the second, its implications. Our conclusion, regarding this point, is that the number of publications does not ensure good teaching. This is illustrated with the data about the teachers from the Language Center: according to students, they were the most successful with the application of continuous assessment. Nonetheless, data from the website showed that they were the poorest performing with research, compared to the staff from other Faculties.

Indeed, not only students, but professors also thought that their teaching was not influenced by the research they were doing. As mentioned previously, the exception were the teachers from the Language Center, who, probably because of the nature of their courses, considered conferences as having a positive impact on their teaching. If attending conferences understands doing research and sharing it with other colleagues, then, the conclusion is that for these teachers, research means also better quality teaching.

Academia in the Republic of Macedonia is awaiting the decision of the Constitutional Court because the decision on these and other legal issues will have a very great significance in terms of university autonomy and on the learning and teaching process itself at the universities in the country. In this regard, without intending to interfere in its decision, we recommend that this decision should not be below the basic content of university autonomy, nor it should be below minimum of necessary university autonomy in the country. This is essential in order to maintain continuity in the legal development of higher education in RM, as well as to preserve the principle of legal certainty in higher education.

From the teaching/learning point of view, it is necessary to promote and strengthen further with all Faculties and all staff, the necessity to make formative (continuous) assessment more efficient, because in that way the quality of student learning is improved. As

recommended by Angello and Cross (1993), “in order to improve their effectiveness, teachers need first to make their goals and objectives explicit and then to get specific feedback, on the extent to which they are achieving those goals and objectives”. (p. 8). Students, on the other hand, need to receive feedback often in order to improve their learning.

Being a good researcher does not guarantee efficient teaching which results in successful learning. Quality teaching requires more than collecting points. It requires continuous professional development and methodological training that will ensure disseminating knowledge and skills to students in a way that is satisfactory and motivational to them, by engaging all their intellectual potential and not just parts of it. Quality teachers need to reflect on their work constantly and try to improve it by gathering information through interactions with their students and not only with their colleagues. Quality teaching happens in the classroom, real or virtual.

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