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Autonomous Universities and Independent Ombudsmen: Does it Work? Does it Really Work? Can that Work?

Ladies and Gentlemen,

dear colleagues from around the world of higher education,

when such a group of high potential ombudsmen and ombudswomen comes together for such a high-level annual meeting of your network: how can a rector say no to the organizers of this conference if asked to give the keynote today? This speech then is about **autonomous universities and independent student ombudsmen and the relationship between them.**

I will do this with keeping in mind **my several professional backgrounds** I have to offer from all my previous positions. Originally, I began my career as a **legal expert** at the bottom of the hierarchical pyramid, starting my way “in the troubles of the plains”. This was followed by an intensive time as a university director for several academic years, always faithfully serving the respective university community. During those years I was very active in a European network myself, namely HUMANE, the Heads of University Management & Administration Network in Europe.

As a **top university civil servant** I then was called to become the **director general at the Federal Ministry of Science and Research**. I applied, I got the job and held this position for seven continuous years, being in charge of infrastructure, budget, and human resources. I had the privilege to serve four different Austrian ministers of science and research, and I served them with great energy.

Since October 1, 2014 I am now holding the position of the **rector of the University of Music and Performing Arts in Graz**. I again had been invited to apply for this position. Since I thought this was yet another thrilling challenge for my career I did apply, and as you can see: I got the job!

So, it's now more than half a year that I am finally my own boss, am I not?

- **Being one's own boss**

Ladies and gentlemen, I want to begin with looking into a possible **informal definition of a "rector"**. And I found a very comprehensive one, given by a dear colleague of mine, Manfred Welan from the Vienna University of Natural Resources and Life Sciences. His definition shows how multi-faceted this position really is. I am quoting Welan:

"A rector is someone who has to comprise several indispensable skills, such as public speaking, persuading and convincing people, being a good and intensive listener. Further skills required are those of an animator, an inspirator, a psychotherapist and a group therapist, an arbiter, a motivator, a diplomat, a wailing wall, an ombudsman and an honest broker between groups"

From this quotation alone, and this comes, after all, from a well-experienced, long-time rector's colleague of mine, you can guess yourself what a rector is up to in daily life. I want to leave it to your imagination how much of one's own boss one can really be under the given circumstances. You as ombudsmen and ombudswomen most certainly have had and still have lots of possibilities for a "reality check" for this definition with YOUR respective rectors, right?

After these about eight months in my new position as a rector, I still do think that I am as free and independent as I never have been before. Being a rector is a permanent challenge, it is daily learning by daily doing. I have my own opinion on what I can do and how. Certainly, all experiences made during my previously mentioned jobs are helping me with my current job.

According to the Austrian Universities Act of 2002 a rector has the following duties.

- presiding over the meetings of the rectorate
- acting as its spokesperson
- nominating candidates for election as vice-rectors
- managing the university office
- negotiating and concluding performance agreements and development agreements with the Federal Ministry of Science, Research and Economy
- acting as the supervisor of all university staff
- selecting professors from shortlists drawn up by the appointments committees and
- concluding employment and service contracts.

Together with the team of vice-rectors he or she is also in charge of admitting of students as well as establishing and discontinuing study programs, prohibiting curricula or changes thereto under certain given conditions.

I deliberately mention all these functions since they clearly demonstrate the **immense responsibility a rector bears in leading a university**. And that being one's one boss can mean many things.

- **Size matters**

With some 2.000 students at my university and the possibility of selecting applicants who want to study at there - like at any other university of arts in Austria - we are better off than institutions of the size of, for example, the University of Vienna with some 94.000 students as the largest education institution of higher education in this country, with almost no selection criteria applicable and hence free access for almost everybody with a higher school leaving certificate.

Whether it is music, dramatic arts, fine arts or applied arts you are interested in, the universities of arts in Austria provide an ideal place for the discussion and further development of art and science for their students. What does matter in this context is not only specific for us but for all higher education institutions: that **size matters, in every respect at all universities**.

We as the universities of the arts as relatively small sized higher education institutions with special structures, are sometimes said to be institutions of our own kind, living on our own little planets, probably even "*abgehoben*" as we say in German, out of touch with the real world.

Yet, no matter how big or how small the number of students, of staff, of academics, of course programs, of take up rates, of students taking exams regularly (there are almost no "inactive" students at universities of the arts due to the master class system), third-party funds – all that matters at universities of the arts, too.

Right now, at this very moment, one of my most important tasks for me as rector is **to prepare the new performance agreement between my university and the Federal Ministry of Science, Research and Economy** for the next three years' contractual period from 2016 until 2018.

It is hence especially exciting for me since last time I myself was still “on the other side”, at the ministry. It has a certain charm and appeal having changed sides. It is interesting to see the needs and necessities of one out of 21 public universities, of my university, and the point of view of the ministry.

When it comes to anything that has to do with facts and figures, when it comes down to money, we are all in the same position, public and private, classical and specialized universities, small and large ones. This is the time when we all have to realize: Neither the rectors have nor the minister has a money printing machine in their respective basements.

Resources need to be used carefully. Financial support should not get lost due to inefficient administration, unclear structures and / or the improper use of human resources. Good inter-personal relations and clear cut responsibilities are therefore an absolute necessity.

Living and working together is more easily done within smaller institutions and can be better steered, yes, also size-related, through effective relationship management. It does make a difference if an institution comprises several tens of thousands of students and staff or just a few thousands. As I said, size matters!

- **Autonomy is not conflict-free**

Let me return then to autonomy which is by no means a guarantee for being conflict-free. No matter how big or how small institutions are, I am again talking about size that matters, conflicts can arise anywhere on any subject.

There are only few regulations and standards regarding conflict, conflict treatment, and conflict resolution mechanisms available. This adds procedural problems in conflict treatment to the actual substantial issues and topics of the conflicts of university life itself. The regulations that rule the cooperation and life of the members of universities are laid down in detailed provisions such as the appointment procedures of rectors, of professors, or with the creation of the structure and content of curricula and regulations concerning studies and examinations.

Conflict treatment *de iure* is not to be found explicitly in any regulatory framework. But of course, there are already *de facto* conflict handling instruments at Austrian universities in place. But they are not

being adequately announced, they are sometimes (geographically) difficult to locate and, therefore, their services are at times difficult to engage.

As part of their recently acquired autonomy, Austrian universities are entitled to set their own measures of "evaluation and quality assurance" in order to ensure a functioning (conflict-free) internal structure. These measures shall guarantee the high quality of the universities' main tasks as well as their performance and secure concrete activities, processes, and structures.

University staff and students causing conflicts, affected by or involved in conflicts at universities here in Austria can make use of various very formalized conflict treatment bodies like the Arbitration Board or the Working Group on Equal Opportunities, among others. **But they are all not really low-threshold institutions at all.**

- **Independent Ombudsmen and their legal bases**

This then, I would say, is the time to discuss the position and the role of an ombudsman and / or an ombudswoman in higher education, independent ones, let it be understood!

Why and since when do university ombudsmen exist?

The world's first university ombudsman Offices were set up in the 1960s in North America during the Civil Rights and Anti-Vietnam movements' activities. They were established to help calm the violent campus unrests whose roots lay with the American war effort in Southeast Asia and with the struggle for civil rights in Canada and the US. They were also intended to help solve the resulting long-term conflicts between students and universities. At the time its main tasks were:

"...to respond to demands for a neutral, confidential, and 'safe' place to discuss concerns and voice complaints. The early emphasis of Ombuds programs was to increase the perception and reality of 'fairness' and justice of procedures and decisions made on campus, and to assist people in navigating the increasingly complex maze of procedures that were being developed."

University Ombuds Offices are also found in other regions and on other continents, such as Mexico in Central America, since 1985, where they contributed to the development of human rights in general. In Australia and New Zealand they have been an integral part of the local higher education systems since the late 1990s.

In Europe, Spain is the country where the first ombuds offices were set up during the 1980s, on their own accord and as a voluntary measure. This was a result of the general societal changes and thus, similarly to the US, a strong civil-society phenomenon, even before the term "civil society" achieved the ubiquity it did in the political and social debates of the 1990s. The so-called *Ley Organica de las Universidades* of 2001 determined two important, closely related, elements serving as a kind of general theme for all similar institutions also elsewhere : on the one hand the establishment of ombudsmen offices as designated official bodies for the informal treatment of conflicts between all members of the university, and, on the other hand, contributing to the overall improvement of quality in higher education.

I don't have to tell you about ENOHE, the loose and informal but very active association of higher education ombudsmen in Europe. From what I learned from your webpage ENOHE is a network of individuals and bodies, who are interested in the work of university ombudsmen, expanding knowledge, enhancing skills, sharing approaches to common problems, and creating a possibility for a more solid base for the ombudsman function. Institutions from several countries with new legal provisions for the establishment of university ombuds services are now affiliated with ENOHE like the "Office of the Independent Adjudicator" for England and Wales established under the Higher Education Act 2004, or Croatia with the "*Studentski Pravobranitelj*" (Student Ombudsman), established in 2007.

- **Interaction by decree?**

Austria, under the Higher Education quality Assurance Act of 2011, was so far the last country (so far) to enshrine higher education ombudsmen in law, to be more precise the Austrian Student Ombudsman at the Ministry of Science and Research.

I was still working at the Ministry, as a kind of trailblazer, when the new institution took off the ground. I precisely remember the initial phase of the designing and implementing of a good back up electronic administration system which now helps to prepare the legally compulsory annual reports for the minister and to parliament.

Under the above mentioned law, university decision makers are obliged to give any information requested by the Student Ombudsman on issues brought forward to him. He, in turn, can make investigations upon his own motion. And as of the academic year 2015/16 he will be able “to name and shame”.

Do I for my university, the university of music and performing arts in Graz, want to be mentioned in the Student Ombudsman’s next annual report?

The legal possibilities are there, the formal way has been paved by federal legislation. But I do not think, and this still needs to be debated between the two sides involved, if it needs legal force to cooperate in solving common cases. Wasn’t the informal way taken so far much better? Under the new regulatory system there is also a potential discrepancy growing between the principles of confidentiality on the one hand and absolute transparency on the other hand.

Hence I want to close with three versions of a similar question: Does the relationship between autonomous universities and independent ombudsmen work? Does it really work? Can it work?

- **Does it work? Does it really work? Can that work?**

Question one: “**Does it work**”. This implies that something is already taking place between both sides. To my knowledge my own institution does not have any current issues to be dealt with by the Student Ombudsman in Vienna – at least nothing has reached my desk, yet.

“**Does it really work?**” means that one of us or both have doubts, that it really does work, in other words, that both sides do not believe in the principles set up by the lawmakers that autonomous universities are in a way controlled by the independent ombudsman at the ministry in Vienna, or *mutatis mutandis*, by one’s one local ombudsman (that we do not have) and don’t need.

“**Can it work?**” is a question addressed to the future. Both sides do not have any experiences (with each other) yet. It needs to be seen what will happen next and how. I understand that some of you do have respective experiences with going public with cases brought forward to you.

I hope that I was able to encourage additional discussions for you during the next two days with these three questions of mine. What the right answer for myself and my university will be you find out when reading Josef Leidenfrost's report to the minister and to parliament on the 15 December 2016.

Let us therefore continue discuss these questions further in two years' time.

Enjoy your work as independent ombuds people until then. We as the autonomous rectors will appreciate it.

Thank you very much for your attention!