

KÁROLI GÁSPÁR UNIVERSITY OF THE REFORMED CHURCH IN HUNGARY

PROCEDURE FOR STUDENT LEGAL REMEDY

(OOR, Volume III)

Pursuant to Act CCIV of 2011 on national higher education and Act CXL of 2004 on the general rules of administrative procedures and services, the Senate of Károli Gáspár University of the Reformed Church in Hungary (hereinafter referred to as the University) establishes the procedure for student legal remedy as follows:¹

GENERAL PROVISIONS

Article 1

The scope of this regulation covers all study programmes of the University resulting in student status including doctoral studies as well as legal relationships with student residence halls (hereinafter: student status). During the examination of the appeal, the provisions of Act on the general rules of administrative procedures and services shall apply to certificates, to the form and content of the decision, to the correction, supplementation, amendment or withdrawal of the decision upon request or ex officio.²

Article 2

(1) ³The student has the right to appeal against any decisions, measures, or failure to act (hereinafter: decision) of the University (its organisation, employee) with the exception of assessment of the fulfilment of academic requirements.

A procedure may also be initiated against a decision concerning the assessment of studies, if

- the decision was not based on the programme requirements accepted by the Senate,
- the decision is contrary to the Organisational and Operational Rules of the University,
- the provisions relating to the organisation of exams were violated.

The submission of the appeal does not exclude the right of the head of the faculty to render equity against the first instance decision in the cases specified in the Academic and Exam Regulation. Students may receive dean's equity one time during their studies.

(2) Provisions relating to student status are all provisions laid down by law or in university regulations that establish rights and obligations for students, in particular

- a) academic and exam matters
- b) decisions on social benefits
- c) disciplinary actions and compensation cases
- d) applications for changing study programme or institution,

(3) decisions on admission procedures. ⁴⁵⁶The student may submit an appeal against the decision, addressed to the Rector, within 15 (fifteen) days after notification or, in the absence of notification, the student's becoming aware of the decision,

¹ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

² Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

³ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

⁴ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

⁵ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

⁶ Amended by Senate Decision No. 59/2020. (V.04.), effective from 5 May 2020.

- in academic matters and in matters concerning faculty scholarships to the dean,
 - in disciplinary and compensation cases to the chairperson of the Disciplinary and Compensation Committee which proceeded as a first instance body,
 - in case of Károli Gáspár Scholarship, Károli Excellence Scholarship, Reformed Christian Scholarship, support for sport activities, basic and regular grants based on social needs to the Rector's Office via electronic request or on paper,
 - concerning applications to the student residence hall to the leader of the student residence hall.
- The submitted appeal has suspensory effect.

- (4) ⁷⁸The Appeal Committee (hereinafter: Committee) shall decide on the application within 30 (thirty) days from the date of submission or, in case of a request for correcting deficiencies, from the date of its fulfilment. In justified cases, the Committee may adopt a decision in writing out of session. Voting by written correspondence is carried out electronically; the chairperson of the Committee shall send the proposal for decision with a deadline of 2 (two) working days to the members who may cast "yes", "no" or "abstain" votes. The vote is valid if more than half of the members with voting rights participate in it within the set time limit. The chairperson shall draw up an official record of the result of the written vote. A copy of the official record shall be sent to the members.
- (5) ⁹The appeal against the challenged decision may be submitted only for reasons directly related to its content, or on the basis of a violation of law or interests arising directly from the decision, with reference to the infringement of law or violation of the university regulations or with regard to a new fact. The appeal must be justified. The appeal may only refer to a new fact of which the applicant was not aware during the first instance procedure or if he/she could not refer to this new fact for reasons beyond his/her control.
- (6) ¹⁰No appeal may be submitted for the sole purpose of exercising the right to equity.

Article 3

- (1) Decisions on student matters made by the management or by the institution during the practical training which violate the requirements of equal treatment are null and void. Anyone may invoke the invalidity of a void decision without time limitation.
- (2) The determination of nullity is subject to appeal before the court if the decision was made by the University in the frame of a procedure according to this regulation, or if it was made by a participant in the practical training or by the maintainer.
- (3) The annulment of the decision may be requested by a person affected by the decision, or if it cannot be established, by anyone. The annulment may be requested without time limit provided that in the case defined in Section (2) the preliminary conciliation procedure with the decision-maker failed.
- (4) In the course of annulment proceedings, it is the decision-maker's duty to prove that there is no ground for nullity.
- (5) The determination of nullity does not affect any rights obtained and exercised in good faith.

Article 4

- (1) No legal remedy is available – except against decisions which violate the requirements of equal treatment – in cases where the University and the student have agreed to provide services. In case

⁷ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

⁸ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

⁹ Added by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

¹⁰ Added by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

of non-observance of the obligations stipulated in the agreement, the aggrieved party may apply to the court.

- (2) ¹¹
- (3) ¹²The student may initiate proceedings by the commissioner for educational rights provided that all remedies available under this regulation have been exhausted, with the exception of judicial proceedings.
- (4) The student is entitled to legal remedy and has the right to terminate the initiated appeal even if his/her student status has been terminated in the meantime.

APPEAL COMMITTEE¹³

Article 5

- (1) ¹⁴The members and the chairperson¹⁵ of the Committee are appointed and dismissed by the Rector. The chairperson of the Committee can only be a person having legal or administrative qualifications, preferably employed by the University.
- (2) The members of the Committee (9) are
 - the chairperson (1);
 - lecturers of the faculties having employment contract with the University (5);
 - three students delegated by the Students' Union, one of whom can be a doctoral student (3).
- (3) The lecturer members are elected on the recommendation of the head of the faculty.
- (4) ¹⁶The term of office of the chairperson¹⁷ and the lecturer members is 3 (three) years, and the mandate of the student and doctoral student members is 1 (one year). The members' mandate¹⁸ may be extended indefinitely.
- (5) The member's mandate shall cease when
 - a) the member's term of office expires,
 - b) the member's employment relationship or student status is terminated,
 - c) the member is recalled from the committee,
 - d) the member resigns.
- (6) The following persons cannot participate in the work of the Committee:
 - a) the one who adopted or failed to adopt the challenged decision, or
 - b) who participated in adopting the first instance decision, or
 - c) who is a close relative of the person under a)-b) according to Article 8:1 Section (1) Subsection (1) of the Civil Code, or
 - d) from whom the impartial judgement of the case cannot be expected, who is interested in the decision on the case.
- (7) A quorum shall exist at the meeting if the majority of the members are present. Decisions shall be made by open ballot, by a simple majority. The chairperson decides in the case of a tied vote.
- (8) In cases when the chairperson is prevented from performing his/her duties, one of the committee members shall be entrusted, in writing, with the task of chairing the meeting convened to decide on the requests. The entrustment is valid for the specific meeting.

¹¹ Deleted by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

¹² Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

¹³ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

¹⁴ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

¹⁵ Added by Senate Decision No. 171/2010. (XII.20.), effective from 21 December 2010.

¹⁶ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

¹⁷ Added by Senate Decision No. 171/2010. (XII.20.), effective from 21 December 2010.

¹⁸ Amended by Senate Decision No. 72/2011. (II.23.), effective from 24 February 2011.

Article 6¹⁹

THE PROCEDURE

Article 7²⁰

- (1) The dean or the chairperson of the Disciplinary and Compensation Committee proceeding as a first instance body shall send the appeal and the relevant documentation to the Rector's Office within 5 (five) days from the receipt thereof.
- (2) ²¹The chairperson of the Appeal Committee shall reject applications not complying with the provisions specified in Article 2 Sections (5)-(6), under its own competence, by order. In this case, no appeal procedure will be initiated.
- (3) ²²If, after the initiation of the procedure, it turns out that the application should have been rejected, the procedure shall be terminated by the order of the Committee's chairperson, within the sphere of its own competence.
- (4) ²³An appeal submitted in accordance with the provisions of Article 2 Sections (5)-(6) shall be discussed and a decision shall be adopted on the basis of the proposal of the Committee's chairperson at the following committee meeting, but not later than within 30 (thirty) days from the date of submission of the application. If the application is submitted by the student between 15th June and 31st August, the Committee shall adopt a decision until 30th September.
- (5) ²⁴If the matter does not fall within the scope of Article 2 Sections (1)-(2) of this regulation, the Committee's chairperson shall forward the application to the competent body, and shall inform the applicant accordingly.

Representation

Article 8

- (1) ²⁵A representative may also proceed in the name of the student (Article 6:11 Section (2), Article 6:15 and 6:17 of the Civil Code).
- (2) If the student does not participate in the procedure in person, the Committee may examine the authorization of the proxy. The form of the authorization can be subject to legal regulations.
- (3) The Committee may reject the representative, if he/she is not suited to represent the student or cannot certify his/her authorization.
- (4) The documents shall be sent to the student, or, if he/she has a representative authorized in writing, to the representative. Nevertheless, the summons shall be served on the student with the simultaneous notification of the proxy.

Calculation of time limits

Article 9

- (1) The days of communication and delivery are not included in the time limit set in days.

¹⁹ Repealed by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

²⁰ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

²¹ Added by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

²² Added by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

²³ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

²⁴ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

²⁵ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

- (2) ²⁶If the deadline falls on a holiday or on a day which is a study break at the University, the deadline shall expire on the next working day.
- (3) The date of submission of an application sent by post is the day of posting.
- (4) In case of doubt the deadline shall be regarded to have been met.

Certificate
Article 10²⁷

- (1) If someone cannot comply with the deadline without any fault on his/her part during the procedure, he/she may apply for *restitutio in integrum*.
- (2) The application for *restitutio in integrum* concerning the non-compliance with the submission deadline shall be judged by the Committee.
- (3) The application for *restitutio in integrum* should be submitted after becoming aware of the failure or after the obstacle ceased to exist, but no later than the period prescribed for the procedural act from the date of the missed deadline but not exceeding 45 (forty-five) days the latest.
- (4) In the event of failure to comply with the deadline, the failed act should be remedied at the same time provided that its conditions are still in place.
- (5) If the Committee accepts the application for *restitutio in integrum*, the missed deadline shall be regarded as met. Thus, if necessary, the Committee shall modify or withdraw its decision, or repeat certain procedural steps.
- (6) The resolution rejecting the application for *restitutio in integrum* may only be appealed if the application has referred to failure to comply with the deadline for submission. The appeal should be submitted to the Rector whose decision may not be subject to further appeal.

Summons, notification
Article 11

- (1) By setting a deadline, the Committee may summon and hear any person whose personal hearing is required during the procedure. All lecturers, employees and students of the institution should obey the summons.
- (2) The summons should be notified in such a way that the summoned person receives it at least five days before the hearing and that the appearance, as far as possible, does not hinder him/her in his/her work.
- (3) The summons should state on what matters and in what capacity (as a party, witness, etc.) the summoned person will be heard by the Committee.
- (4) The summons shall be sent in writing, by mail with return receipt or in another way which can certify the receipt in a credible way. Summons communicated by phone shall be recorded. It has the same effect as a written notification if the chairperson of the Committee requests the person being present during the procedure to appear at another time, records it in the document and let the summoned person sign the record.
- (5) The student may not be obliged to appear in the procedure initiated by him/her. Consequently, the Committee will not summon the student but will notify him/her.
- (6) The Committee is obliged to notify the student referred to in Section (5) about the hearing of the witness or the expert and to inform him/her that he/she may participate in the hearing, nevertheless his/her appearance is not obligatory.

²⁶ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

²⁷ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

Clarification of facts

Article 12²⁸

- (1) ²⁹The Committee is obliged to clarify the facts necessary for adopting a decision. During the procedure the student must be given the opportunity to be heard in person at least once. The representative of the university's organisational unit which made the challenged decision, or which failed to act, should be invited to the meeting of the Committee in order that he/she can express his/her opinion in connection with the appeal. In justified cases, the chairperson of the Committee may hear the student electronically (using an application that allows simultaneous audio and video communication).
- (2) ³⁰The Committee shall base its decision on the facts established in the first instance decision, unless the student refers to a new fact or a new evidence in his/her appeal in accordance with the provisions of Article 2 Section (5). If, in the opinion of the Committee, the available data are insufficient for the decision, the Committee may – ex officio or on the student's initiative – carry out an evidentiary procedure in order to obtain means of proof.
Facts known ex officio or in the public domain should not be proved.
- (3) Any proof which may clarify the facts can be used in the evidentiary procedure. Means of proof can be, in particular: student statements, documents, testimonies or expert's opinions.
- (4) The Committee is free to choose the way of establishing the proof and may assess the available evidences at its own discretion.
- (5) ³¹If the student fails to appear at the hearing despite regular notification, the personal hearing may be waived, or, upon request, the student or his/her representative should be provided the opportunity to communicate his/her remarks in writing after the notification of the Committee meeting but not later than 5 (five) days before the meeting. The student has the right to submit comments orally or in writing, or to refuse to make a statement. If the student does not make a statement or fails to provide the requested information, the Committee shall decide on basis of the available facts. The student should be warned about this.
- (6) The chairperson of the Committee is obliged to provide the student with necessary information before the hearing, and to warn him/her of his/her rights and obligations. During the procedure, it must be ensured that the student is not prejudiced due to a lack of knowledge of the legislation.

Article 13

- (1) In order to clarify the facts, the Committee may request the student to present certain documents, or may contact another body for that purpose.
- (2) Unless otherwise provided by law, the student can make a statement about the fact to be proved instead of providing a document that is unreasonably difficult to obtain.
- (3) Provisions for documents also apply to objects which are suitable for recording data, usually by technical or chemical means, (photos, video-, audio recordings, magnetic disks or magnetic tapes, electronic documents, etc.).
- (4) ³²If the application
 - a) does not comply with the requirements indicated in the regulation,

²⁸ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

²⁹ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

³⁰ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

³¹ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

³² Added by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

- b) complies with them but it needs to be supplemented due to a new fact turned out during the clarification of facts,
the Committee may request the student to provide the missing data or correct deficiencies, on one occasion, by setting a deadline and warning the student of the legal consequences of the omission.

Article 14³³

- (1) The fact concerning the case can also be proved by a witness.
- (2) The person summoned as a witness is obliged to appear and give evidence at the hearing – except in case indicated in Section (3) Subsection b) and Sections (4) and (5).
- (3) The following persons cannot be heard as a witness:
 - a) a person from whom a testimony which can be assessed as evidence cannot be expected,
 - b) a person who is not exempted from providing information on protected data.
- (4) The witness may refuse to testify if
 - a) the student is his/her relative (hereinafter: relative) according to the Civil Code,
 - b) with the testimony he/she would accuse himself/herself or his/her relative of committing a criminal offence,
 - c) according to act on the freedom of the press and the fundamental rules of media contents, the media content provider or a person employed by an employment contract or by any other type of working relationship – even after termination of the employment relationship – would reveal with the testimony the identity of a person who provided information concerning the media content service activities, or
 - d) he/she enjoys diplomatic immunity.
- (5) At the beginning of the hearing the identity of the witness shall be verified. The witness shall make a statement about his/her relationship with the student and shall state that he/she is not biased against the student. The witness shall be warned of his/her rights and obligations and of the consequences of perjury.
- (6) A witness who has not yet been heard may not be present at the hearing of the student and other witnesses.

Article 15

- (1) The Committee shall hold a hearing if the joint hearing of those involved in the procedure is necessary to clarify the facts.
- (2) The student and his/her representative may comment on what was said at the hearing, may ask questions to the person being heard, or may request the hearing of another person or the obtaining of further evidence.

Suspension of the procedure

Article 16

- (1) If the substantive decision depends on the preliminary assessment of an issue in which the procedure falls within the scope of another body, the Committee shall suspend the procedure. If the student is entitled to initiate the procedure before another body, he/she must be requested to do so, with an appropriate deadline. If the student fails to comply with the request, the Committee will decide on the basis of the available data.
- (2) ³⁴The suspension period shall not be counted in the administrative deadline.

³³ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

³⁴ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

Article 17

(1) Minutes or audio recordings (hereinafter: protocol) of the testimonies of the student, witnesses, experts as well as of the hearing should be made during the procedure.

The protocol should include the list of the members of the Committee, the place and time of the minutes, the personal identification data and the address of the person being heard, information on rights and obligations, important declarations and statements concerning the matter, and finally, in case of a written protocol, the signatures of the person heard, the chairperson of the Committee and the minutes keeper.

Inspection of the files

Article 18

(1) During the procedure the student and his/her representative may inspect the files, and can make copies of the documents.

(2) In addition to the student and his/her representative, the Committee may allow other persons (or the representative of a body) to inspect the files and to make copies if they can prove that the knowledge of the content of the files is necessary to exercise their rights or to perform their tasks.

Minutes of the consultations and the vote, draft decisions and any other documents containing governmental or professional secrets may not be inspected. Inspection of files and making copies of documents on which a substantive decision is based may not be ruled out as a matter of professional secrecy.

Form and content of the decision

Article 19

(1) As a result of the examination, the Committee can make the following second instance decisions in the procedure:

- a) the appeal is dismissed,
- b) the person who failed to adopt a decision is ordered to adopt a decision,
- c) the first instance decision, resolution is amended,
- d) the first instance decision, resolution is annulled, and the body or person proceeded as a first instance body is ordered to carry out a new procedure and to adopt a new decision.
- e) ³⁵the procedure is terminated if the student has withdrawn the appeal.

(2) The decision shall be issued in the form of an official resolution and it shall be justified.

(3) ³⁶The resolution should contain

- a) the name and address of the student, the name of the faculty and the study programme, the number and subject of the case,
- b) the decision of the Committee and information on the possibility of judicial review,
- c) the facts and the relevant evidences in the justification; the evidences provided by the student but omitted during the procedure, and the reasons for the omission; other circumstances on which the decision is based, and legislation and university regulations on which the decision was adopted,
- d) the place and date of the decision, the name, position of the person who signs the decision, the stamp of the university.

³⁵ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

³⁶ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

- (4) In the absence of other party, the justification and information on legal remedy may be omitted in case of a decision approving the application.
- (5) The decision shall be worded on a separate sheet and shall be signed by the chairperson of the Committee.
- (6) If the decision contains an obligation, a time limit or deadline should be set for its fulfilment.
- (7) The decision may allow fulfilment in parts.

Notification of the decision

Article 20

- (1) The decision should be communicated by delivery, but it should also be notified to the student being present at the hearing. In the latter case the written resolution should be sent to him/her in a demonstrable manner within 8 (eight) days.
- (2) The publication of the decision shall be recorded in the protocol.
- (3) The date of notification of the decision is the date on which it is delivered, published.
- (4) The resolution should be sent to all persons involved in the case as well as to the head of the faculty.
- (5) The decision of the Appeal Committee as a second instance decision becomes effective upon notification. The final decision is enforceable unless the student has applied for judicial review.

Judicial review

Article 21³⁷

- (1) The student may apply for a judicial review of the decision adopted in respect of the appeal. The application initiating a proceeding has suspensory effect.
- (2) The application can be submitted with reference to the violation of the provisions concerning student status. For the purpose of these provisions, provisions concerning student status are those specified by law and by the institutional documentation which establish rights and obligations for students.

CLOSING PROVISIONS

Article 22

- (1) ³⁸In matters not regulated in this regulation, or in case the procedural provisions of this regulation would be contrary to law, the provisions of the applicable general code shall apply to the appeal procedures of the university.
- (2) ³⁹The amendments of this regulation shall also apply to pending cases.

Budapest, 16 October 2019

Dr. József Gyula Zsengellér
rector

³⁷ Amended by Senate Decision No. 186/2019. (X. 16.), effective from 21 October 2019.

³⁸ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.

³⁹ Amended by Senate Decision No. 50/2020. (III.30.), effective from 30 March 2020.