



Judgment of the USC Appeals Board in the matter of:

***Croatian Club; Sri Lankan Students' Alliance;
Transitional Justice; Serbian Society; Macedonian
Student Association Western v USC Clubs
Governance Committee, 2017:1***

Judgment Date: January 6, 2017

Panel: Laura Lepine (Chair), Kevin Spykerman, Danielle D'Alonzo

Reasons for Judgment: Spykerman and D'Alonzo

PART I: OVERVIEW

The issue in these appeals is whether the Clubs Governance Committee (CGC) came to reasonable decisions when considering each proposed club's application and whether it acted throughout the process in accordance with USC club policies. This decision is a consolidation of five USC club ratification appeals. This appeal is not about whether the clubs deserve to be or should be de-ratified. The role of the Appeals Board ("the Board") is to determine the reasonableness of the CGC's decision, and whether the clubs were treated fairly.

In arriving at our decision, the Board considered and relied upon the *USC Club Hearings and Sanctions Procedure*, the *USC Clubs Executive Terms of Reference*, and the *USC Clubs Operating Policy*.

PART II: FACTS

On December 1, 2016, it was brought to the attention of the CGC that the clubs did not meet the membership requirements to remain a club under the USC, namely to have 25 members. On December 2, 2016, a Notice of De-Ratification was sent to the clubs. The decision to de-ratify the clubs was based on Section 4.06(2) of the *Club Hearings and Sanctions Procedure* and Section 3.01(11) of the *Club Executive Terms of Reference*, which require that USC clubs must have at least 25 members (not including the Executive, in the case of the *Club Executive Terms of Reference*). This decision of the CGC forms the basis of the appeals.

PART II: ISSUES

1. Was the CGC's decision to de-ratify the clubs contrary to Section 4.01(4) of the *USC Clubs Operating Policy*?
2. Should protection under Section 4.01(4) of the *USC Clubs Operating Policy* be afforded to all the clubs?

PART III: ANALYSIS

Issue 1: Was the CGC's decision to de-ratify the clubs contrary to Section 4.01(4) of the *USC Clubs Operating Policy*?

The CGC's decision to de-ratify the clubs relied upon the following policies:

Club Hearing and Sanctions Procedure:

4.06 De-Ratification Procedure:

Circumstances where de-ratification may be considered include, but are not limited to:

(2) the club does not have twenty-five (25) members;

Club Executive Terms of Reference:

3.01 Each USC Club Executive shall have the following responsibilities to the USC and the Club's membership:

(11) To ensure that the Club maintains a membership of at least twenty-five (25) members, not including the Executive.

Based on these policies, the CGC has jurisdiction to de-ratify the clubs due to failure of the clubs to meet these requirements. The Board was directed by some of the clubs to Section 4.01(4) of the *Clubs Operating Policy*, which states:

4.01 The USC provides Clubs with privileges provided those Clubs adhere to the Clubs Policy and comply with any other restrictions or requirements imposed by those with authority over the Clubs system. Privileges extended to Clubs include the following:

(4) To solicit members at orientation week and during Clubs Week until January 31

Upon consideration of this provision, the Board is of the view that the CGC's decision to de-ratify the clubs was unreasonable. Under this provision, the clubs were within the parameters of soliciting membership as the deadline for reaching 25 members had not yet expired. Since the CGC's decision to de-ratify came before January 31, its decision was premature.

Issue 2: Should protection under Section 4.01(4) of the USC Clubs Operating Policy be afforded to all the clubs?

In the club submissions for this appeal, not every club made specific mention of Section 4.01(4) of the *USC Clubs Operating Policy*. This provision was explicitly referred to by the Croatian Club and Macedonian Student Association Western. The Serbian Society did not mention Section 4.01(4), but did refer to the January 31 deadline for club memberships to be paid. The Sri Lankan Students' Alliance and Transitional Justice did not make any mention of Section 4.01(4). The issue then is whether protection under Section 4.01(4) should be extended to the clubs that did not make explicit mention of the provision. The Board is of the view that it should. The *Clubs Operating Policy* is a public policy that applies to all USC ratified clubs, irrespective of whether a club specifically brought attention to such policy in its submissions. Thus, the clubs that did not make specific mention of this provision should not be denied the provision's protection simply because they failed to make mention of the provision. To decide otherwise would be to create a requirement that all clubs, in order to receive the protection of the provision, must explicitly invoke it.

PART III: DISPOSITION

All appeals are allowed.