

THE FIGURE OF THE OMBUDSMAN IN SPANISH UNIVERSITIES: CHALLENGES IN TIMES OF CRISIS

1.- THE SPANISH UNIVERSITY SYSTEM

The university system in Spain comprises 77 universities, 50 of which are public and 27 are private.

Spanish students start university after finishing their upper secondary education, known as *Bachillerato* (at the age of 18) or on concluding an advanced vocational training cycle (at age 20).

Students who have completed their *Bachillerato* studies, after passing the University Entrance Examination (*Selectividad-PAU*) are entitled, according to current regulations (Royal Decree 1892/2008), to choose where they wish to begin their university studies.

In Spain, university courses, which lead to official degree titles, are structured on two levels: Undergraduate studies (first university cycle) and postgraduate studies (comprising Master's Degree and Doctorate – second and third cycles, respectively).

Undergraduate studies, or Bachelor's Degrees, are designed to prepare students for the exercise of professional activities and include basic tuition and general training in the following fields of knowledge: Arts and Humanities, Sciences, Health Sciences, Social Sciences and Law, Engineering and Architecture.

Undergraduate degree studies consist of 240 ECTS credits, equivalent to four academic years, although in the case of qualifications subject to European guidelines, such as Medicine, the number of credits is greater.

Postgraduate studies leading to the official Master's Degree correspond to a second university cycle dedicated to advanced, multidisciplinary and specialized study. These are postgraduate studies that comprise between 60 and 120 ECTS credits.

Further types of postgraduate studies are doctoral degrees, the third university cycle. The requirements for accessing these studies include having completed the second cycle of university studies (i.e. 300 ECTS credits), which according to the new regulations governing university studies obliges students to reach a Master's degree. Students who complete their doctorate receive the title of Doctor.

1.1.- Regulated access routes to the Spanish university system

The Spanish university system may be accessed via 7 routes, according to applicable regulations.

- Organic Act 6/2001, of 21 December, on Universities, modified by Act 4/2007, of 12 April.
- Royal Decree 1892/2008, of 14 November, which regulates the conditions for accessing official university degree courses and admission procedures to Spanish public universities.
 - a. Through the University Entrance Examination (*PAU*): This consists of successfully completing an exam divided into two parts, general and specific, the results of which are added to the average grades during the last two years of secondary education (*Bachillerato*) and weighted with the two chosen subjects in the specific part. The grade thus obtained determines to which university and course of study the student may apply, from his or her list of preferences.
 - b. Students from EU member States or other States party to an international agreement with Spain to this respect (credential issued by the Ministry of Education, Culture and Sports through the National Open University - UNED).
 - c. Foreign students, after requesting homologation of their Secondary Education title (tested by the UNED).
 - d. Students who hold qualifications from technical colleges or advanced vocational studies, or advanced artistic training or higher physical education training, may be admitted directly with their average grade in their course of training. In the case of official university degree studies in which the number of requests for admission is greater than the number of places available, students holding qualifications of the type referred to in this paragraph may sit the specific part of the entrance exam to improve their grade.

e. University entrance examination for persons over 25 years of age: Applicants must be 25 years of age before 1 October in the year in which the examination takes place.

f. By accreditation of working or professional experience, for people over 40 years of age: This route is only open to candidates who have gained working or professional experience with regard to a given field of study, do not hold any other academic qualification enabling them access to university through other routes and are 40 years of age before 1 October in the year the academic course of study commences.

g. University entrance examination for persons over 45 years of age: Candidates must be 45 years of age before 1 October in the year in which the examination takes place. They must not hold any other academic qualification enabling them access to university through other routes nor accredited working or professional experience. These candidates will only be entitled to enrol at the university at which they pass the entrance examination.

2. TUITION FEES AT SPANISH UNIVERSITIES

The fees Spanish students pay at public universities are regulated under prices for university studies leading to official titles and established by Decree 66/2012, of 5 July, issued by the Governing Council of the Autonomous Community of Madrid (published in the Official Gazette of the Community of Madrid on 6 July), within the limits established by the General Assembly for University Policy, which are related to the cost of rendering the services in the terms fixed in Royal Decree-Law 14/2012, of 20 April, on urgent measures for the rationalization of public spending.

These prices are formed of an amount payable for academic services and another for administration costs and academic insurance.

To calculate the amount payable for academic services, the total number of credits must be multiplied by the price per credit. The price per credit will depend on whether it is the student's first, second, third or subsequent enrolment, and the experimental level of the course of study in question.

In the case of private universities, prices are established by the institution for each of the courses offered, taking into account their experimental level, efficiency and profitability.

It is therefore more economical to study at a public university where the average cost is about EUR 1400 per academic year, in comparison with approximately EUR 8600 per academic year at private universities.

On analysing the case of public universities in the Community of Madrid, we find that the most expensive university is Universidad Rey Juan Carlos, with an average yearly fee of EUR 1400, while the most economical is Universidad Carlos III with average fees amounting to EUR 1000 per year. The differences are due mainly to the different range of degrees offered at the universities, and the experimental level in each case which is a factor causing public university fees to vary.

With regard to private universities in the Community of Madrid, matriculation fees are, as mentioned above, 14% higher. The average cost falls within the range of EUR 7,000 - 10,000 Euros at Universidad Camilo José Cela and Universidad Europea de Madrid. These coincide with public universities in that fees increase with the experimental level of the course of study.

3. THE UNIVERSITY OMBUDSMAN IN SPANISH LAW

The Organic Acts on Universities (LOU 6/2001 and LOMLOU 4/2007) foresee the figure of the Ombudsman whose role is to ensure that the rights and freedoms of university community members (professors, students and administrative and services staff) are respected by the actions of university organs and services, in the interest of quality and proper operation of the university.

Every public and private university regulates, in its Statutes and Regulations, the figure of the University Ombudsman and the scope and consequences of its actions.

Precisely as this is an internal organ, the rights to be protected must be preferentially those related to university life, although of course, many of these are inspired on the fundamental rights stated in our constitutional code of law.

Regarding his *institutional configuration*, the University Ombudsman performs his duties autonomously and impartially; independently, as his actions are not subject to any imperative mandate and without executive power.

Similarly, we cannot forget that total confidentiality in the treatment of all issues is likewise fundamental in assuring

confidence in the institution, and is demanded by the intrinsic nature of the great majority of cases.

This organ is essential for the *type of issues or functions* it carries out:

- *Orientate* and provide possible lines of action to persons coming to seek consultation.
- *Supervise* claim procedures.
- *Mediate* in solving interpersonal conflicts.
- *Propose* and *participate* in managing changes.

3.1. Nature of the Ombudsman's remit

The actions most commonly carried out at the Office of the Ombudsman in Spain are as follows:

Consultations: These are the most frequent and the most rapidly resolved. With these, a two-fold objective is met, orienting and informing members of the university community. In some cases, orientation is also given to persons from without the university community on complaints and other problems arising from university life activities. These actions are often taken in the form of personal interaction with the responsible person at the university organ who has the authority to provide a rapid solution to such problems or who can provide the necessary information.

Claims and/or complaints: Claims and complaints may be individual or collective and occur when claimants consider that their rights have been breached by another person or collegiate body. These must be in writing, giving full identification details and signed by the interested party or parties. Any documentation deemed relevant will be attached.

Mediation and conciliation: These are actions taken at the express behest of a member or members of a group within the university community in the event of a conflict between parties. If the parties concerned accept its mediation, the Office of the University Ombudsman may take any action leading to the solution of the conflicts and disagreements arising within different sectors of the university community.

The majority of actions refer to problems raised by students, which is to be expected considering they are the largest population within the university community, quite there are naturally also other issues regarding the faculty and research staff and the administrative and services personnel.

Therefore, the University Ombudsman is an institution with a fundamental remit to ensure the proper general functioning of the university community, endowed with the singular authority to voice a legal opinion in this role for enabling dialogue, building consensus and agreement, without imposition but seeking in every case elements that will allow accord and conciliation. In pursuing these aims, it makes use of its *autoritas*, the moral authority and prestige of the institution, and the power of persuasion, rather than executive powers, which it does not possess.

The potential of the figure of the Ombudsman implies, fundamentally, fomenting and assuring "good practices" and the implementation and consolidation of ethical and scientific values in university contexts. Quality need not remain limited to traditional academic aspects, but may extend to values of ethical quality and scientific honesty, all of which can be summed up and referred to as "human quality".

It should be stressed that the Office of the University Ombudsman guarantees confidentiality in each and every case handled, with the exception of those situations in which indicating details is unavoidable in the proceedings.

3.2. Strategies for disseminating the figure of the University Ombudsman

The figure of the University Ombudsman, given the scope of competencies covered, must actively strive to increase its visibility, disseminating not only its actions but also the mechanisms employed in resolving conflicts.

Dissemination strategies used by the Office of the University Ombudsman vary according to the collective to which they are oriented, which may be students, administrative and services personnel or faculty and research staff, and include:

- A presentation of the institution to new students at the Student Welcome Sessions at the beginning of each academic year.
- Regular meetings with student delegations and representatives of the faculty and administrative and services collectives.

- Guest attendance (with voice but no vote) at collegiate organs of the institution.
- Publication of informative leaflets on the figure of the University Ombudsman, the Ombudsman's competencies and how this Office can be reached to request an action.
- Presentation to the University of an Annual Report on the actions of the University Ombudsman during each academic year and its publication and diffusion.

3.3. The University Ombudsman in times of crisis

In these current times of crisis, the Offices of the University Ombudsman in Spain have seen an increase in their activity. The reasons for many different university collectives to seek the services of the Ombudsman vary widely, but the number of complaints brought by students has risen sharply. Many of these complaints are in relation to the increase in the price of university fees in the last academic year.

An immediate consequence of the higher fees at both public and private universities is a downturn in the number of credits matriculated per academic year and, at the extreme, the abandonment of university studies.

This year, to study at a Spanish university is more expensive. With the increase in university fees, the average cost of the first year of undergraduate studies has risen by approximately 25% in the case of public universities, while the increase in private universities has been smaller, at approximately 14%.

This fact has generated new and difficult situations for students who find they are unable to pay their fees, leading to enrolment in fewer credits per student per year, abandonment of studies or transfer to another university.

In this context, the Spanish university student has become more demanding of the services offered by the university and also, more specifically, of the system for assessing and grading the skills and knowledge acquired in the subjects in their study plans. This has generated more complaints regarding assessment systems and criteria, since failing a subject entails a significant increase in the corresponding academic fee, which causes students to feel they are customers receiving a service rather than students.

With this new policy of public university fees and students' growing dissatisfaction with said policy, the figure of the University Ombudsman is key to supporting and counselling students, as this is an entirely new situation that has arisen in the last few months, and the Offices of the Ombudsman are called upon to act in the interest of this university community group.