The “Reinforcement of Administrative Clout Act” (Wet Versterking Bestuurskracht): Proposals of the Steering Committee

Introduction

The Netherlands has new legislation governing the administration of universities in the form of the “Reinforcement of Administrative Clout Act” (Wet Versterking Bestuurskracht). Part of this act has come into force as of January 1, 2017, the remainder will take effect on September 1, 2017.

The purpose of the new law is to enhance the interplay and debate between executive bodies (Executive Board, departmental boards) on the one hand and representative bodies (University Council, departmental councils and now program committees as well) on the other.

Especially the position of the program committees (opleidingscommissies) is reinforced in the new law. These committees are now becoming a formal co-determination body, with the legal right to approve parts of the Program and Examination Regulations (OER).

Main elements of the new legislation

1) The position of the Program Committees (opleidingscommissies)

- The program committees are getting an expanded mandate: whereas in the past they were to focus mainly on the Program and Examination Regulations, they are now supposed to make recommendations on all matters relevant for furthering and securing the quality of the program.
- New is the legal right to approve parts of the Program and Examination Regulations (OER), which means these parts need the approval of the committee. This includes aspects such as the way the program is being evaluated, the contents of specializations or tracks, practical exercises, the way the study load is spread across the curriculum and the extended duration of (master) programs (in the case of TU/e: 2-year master programs).
- Program Committees retain the right to make recommendations on the remaining parts of the Program and Examination Regulations (OER).
- Each year a decision has to be made on whether to elect new Program Committee members or to appoint them. This decision requires the agreement of the departmental council (Faculteitsraad) and has to be included in the departmental regulations (Faculteitsreglement).
- The program committees formally become part of the university’s co-determination system.
- Departmental boards has to react to program committee recommendations within 2 months and in case they intend to divert from the recommendations they have to consult the committee first.
- Twice a year a program committee has the legal right to invite the departmental board for a discussion of intended policies, based on an agenda composed by the committee.

2) The support of representative bodies

- Representative bodies are entitled to official, financial and legal support.
- They are also entitled to training.
- There has to be a budget for training.
3) **Program evaluation**

- The way a program is being evaluated now has to be specified in the Program and Examination Regulations (*OER*).
- This specification needs the approval of the relevant program committee.

4) **Exemption of legal tuition fee**

- Students with full-time positions in the university’s administration or society can be exempted once from paying the legal tuition fee (at TU/e there is already a provision in place for this through a university fund (*Profieleringsfonds*)). This issue has already been discussed in the University Council last year, and thus far the provision has not been called upon.

5) **Period of validity of examination results**

- The validity of examinations (and credits) can now only be limited in case of demonstrably outdated knowledge, insight and/or skills.

6) **Appointment of Executive Board members**

- Profiles for the appointment of new Executive Board members have to be made public in advance.
- The rights of the University Council to make recommendations have been expanded to include intended decision-making by the Supervisory Board on the appointment, discharge and profiles of Executive Board members.
- The University Council is now entitled to appoint one staff representative and one student member on selection committees for Executive Board members.

7) **Right to information**

- Representative bodies are now to receive all information, solicited and unsolicited, in a timely way which can reasonably deemed to be necessary for the fulfilment of their mandate.

**Necessary actions**

The implementation of the new legislation requires action on different fronts:

- modification of all relevant internal regulations, both at the university and the department levels;
- organizing training of prospective members of representative bodies, especially program committees;
- creating financial facilities: a budget for training, the TU/e compensation scheme for administrative positions;
- having a dialogue with the representative bodies on their support and the way they are provided with relevant information (is there a need to organize things differently?);
- the set-up of official, financial and legal support of representative bodies (e.g. the position of secretary of program committees).
The specific situation at TU/e

The new legislation raises some issues with regard to the specific educational governance structure at TU/e. This can be explained as follows.

TU/e has as a specific characteristic the fact that the institution has chosen to adopt a university-wide educational profile, using the TU/e Bachelor College and the TU/e Graduate School.

As a result, the TU/e programs share certain elements, including:
- a fixed, over-arching curriculum structure (BSc; to a lesser extent MSc);
- institution-wide parts of the curriculum (BSc: basic courses, USE, coherent elective packages);
- a fixed size of curriculum elements: courses of 5 EC each, a BSc Final Project (BEP) of 10 EC, coherent elective packages BSc of 15 EC each, an MSc Final Project of 30 /45 / 60 EC;
- within the MSc programs: Professional Skills and an international experience.

Since the establishment of the TU/e Bachelor College and TU/e Graduate School, a specific educational governance structure has been developed in order to be able to manage the TU/e educational profile.

Alongside the departmental Deans, there are now two Deans heading the TU/e Bachelor College and the TU/e Graduate School, respectively. Both the departmental Deans and the two newly added Deans participate in the TU/e Management Meeting (Bestuurlijk Overleg).

The Bachelor College and Graduate School Deans have specific tasks and responsibilities within the framework of the TU/e educational profile. These include:
- the development and implementation of the directives of the Executive Board with regard to Bachelor College and Graduate School, respectively;
- quality assurance of TU/e education with regard to issues surpassing the level of individual programs;
- innovation and strengthening of teaching and learning.

These tasks and responsibilities are currently being elaborated further within the framework of a new educational governance structure in connection with the ongoing “Future-oriented educational organization” (TOO) process.

Other elements of the specific TU/e educational governance structure have resulted in the establishment of some additional university-wide bodies, including an Advisory Committee Bachelor Education (ACB), which consists of representatives of all BSc program committees, and a platform in which all examination committees at both the BSc and MSc levels are participating (AEB/AEM).

This specific educational governance structure at TU/e raises some issues for the implementation of the new legislation. These will be covered in the remainder of this document.
Proposals by the Steering Committee

1. Composition of the program committees

Considerations

One issue which will have to be decided is whether or not to organize elections for the (BSc and MSc) program committees. This is a decision that will have to be made annually and should be incorporated into the departmental regulations (Faculteitsreglement).

The Steering Committee has considered the following:

- Consultations with the Student Advisory Body (SAO) and the Advisory Committee Bachelor Education (ACB) have shown that among the current representatives no one is in favor of organizing elections.
- Opinions are starting to diverge on how to come to a representative composition of program committees other than through elections.
- One important element in these discussions the Steering Committee seeks to address is the potential for a “closed shop” with regard to these committees’ composition. According to the Steering Committee, membership of a program committee should be open to anyone in both faculty and students.
- Especially in cases where there is one joint program committee for several (BSc and MSc) programs, it is important that the program committee has a balanced composition in which all relevant stakeholders in students and staff have adequate representation.
- It is not desirable that one body with co-determination powers has influence on the composition of another body with co-determination powers.

Given these considerations, the Steering Committee proposes the following.

Proposal

- The existing program committee comes up with a proposal for the filling of any vacancies within the committee. Faculty representatives will be seeking new candidates for faculty vacancies, student representatives will be seeking new candidates for student vacancies.
- However, to ensure openness of membership to all, vacancies are also widely advertised to the entire faculty and student body involved in the program.
- All interested persons can put themselves forward by submitting their candidacy to the Secretary of the program committee.
- The program committee discusses all candidates for the vacancy and sends a motivated proposal to the departmental board.
- The departmental board subsequently appoints the new program committee member(s) while taking into account the overall balance in the composition of the program committee.
- It would be preferable if the procedures to fill vacancies are the same or similar across departments. However, if a department feels the need to develop its own procedures, it can do so and incorporate these procedures in its departmental regulations (Faculteitsreglement).
2. Co-determination on issues surpassing individual programs

Considerations

- The educational profile of TU/e with its Bachelor College and Graduate School results in some elements surpassing the level of the individual programs.
- Before any such elements are decided, proposals are subjected to intense university-wide discussion with all departments and programs before formal decision-making takes place. Consensus is actively sought.
- Formal decisions are eventually shaped as Executive Board directives based on the (existing) paragraph 9.5 of the Higher Education and Scientific Research Act (WHW). These directives include the Bachelor College and Graduate School directives, specifying the core elements of their institution-wide educational concepts, as well as the model Program and Examination Regulations (OER), which “translates” these concepts into concrete regulations.
- Thus far, co-determination on these directives has been exercised through the University Council. No directives are issued without the approval of the University Council. In this role, the University Council acts as a collective co-determination body instead of co-determination by every single departmental council.
- Local implementations of the institutional directives are discussed and approved by each departmental council.
- The new legislation is based on the assumption that university programs are completely separated entities with nothing in common. This assumption is invalid, both for the situation at TU/e and elsewhere. In order to be able to maintain the TU/e educational profile including its Bachelor College and Graduate School, solutions have to be found in agreement with the spirit of the new legislation without compromising TU/e’s common philosophy.
- While there is an overarching body representing the BSc program committees (the ACB), such a body does not yet exist representing the MSc program committees. While there is less commonality across TU/e’s MSc programs compared to TU/e’s BSc programs, finding a solution for adequate representation of MSc program committees at the institutional level is required. At present, there is considerable overlap between BSc and MSc program committees; 8 out of 22 master programs have completely separate MSc program committees.

Proposal

- For elements surpassing the level of the individual programs (i.e. the Executive Board directives for Bachelor College and Graduate School as well as the joint parts of the model OER based on these directives), the co-determination rights of the program committees are jointly exercised by bodies representing the program committees. At the level of BSc education, this is done by the Advisory Committee Bachelor Education (ACB), which consists of one faculty member and one student member from each BSc program committee. At the level of MSc education, this is done by a similar collective representation of all MSc program committees (one faculty member and one student member each).
- This joint exercising of co-determination rights is based on a precisely formulated mandate regulation, which spells out for which issues co-determination rights are exercised collectively.
- Collective representation of MSc program committees needs to be organized. This can be done a) by transforming the current ACB to a more general Advisory Committee Education

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1 E.g. Tilburg University has a philosophy course in all its programs, while Utrecht University has a common curriculum structure in all its BSc programs.
with two chambers (BSc and MSc, respectively); b) by expanding the composition of the current ACB twice a year with representatives from the 8 MSc programs which have completely separate program committees (the “ACB+” option); or c) by establishing a full-fledged ACM (Advisory Committee Master Education), separate from the current ACB. The choice between these alternatives has to be made through discussion with the Dean Graduate School and the MSc program committees.

As this is a rather abstract formulation of the Steering Committee’s proposal on this issue, here is a concrete example of how this would work out in practice.

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**Example: the basic courses in TU/e BSc programs**

With regard to the basic courses within the TU/e Bachelor College, co-determination rights would be exercised as follows:

- The ACB would be asked to agree with the part of the Bachelor College directive on the basic courses and with the parts of the model OER with regard to the basic courses for which the BSc program committees have co-determination rights, i.e. the compulsory nature of the basic courses across all BSc programs, the requirement to embed Professional Skills in the major, the variants of basic courses and the study load of the basic courses.

- The program committee(s) of the department(s) offering the basic course in question continue to exercise co-determination rights on matters related to content, i.e. the qualities students are to acquire through the course in terms of knowledge, insight and skills, practical exercises and the way the course is evaluated.

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3. **Adapting internal regulations**

Further discussion with all relevant stakeholders within TU/e on at least some of the issues with regard to implementation (especially the two preceding proposals by the Steering Committee) is needed before the relevant internal regulations can be adapted to the new legislation. The Steering Committee feels it is imperative to have a thorough discussion of the proposed way to implement the new legislation first, before proceeding to draft new regulation texts, such as the TU/e’s Management and Administrative Regulations (Bestuurs- en Beheersreglement, BBR) and the model for the departmental regulations (model Faculteitsreglement).

Hence the Steering Committee proposes to first focus on discussion of the solutions and proposals put forward by the Steering Committee, and not to adapt internal regulations before these discussions have led to a conclusion. This procedure would be similar to the one followed with regard to the model OER, where first a topic list is decided, based on broad input from across the TU/e organization, and only then the text of the model OER itself is decided upon.

Discussion of these proposals also includes external scrutiny of the principles underlying the Steering Committee’s proposals by consulting both external legal expertise (especially on the collective exercise of co-determination rights) and the Board of the Dutch-Flemish Accreditation Organization (NVAO) on the compatibility of the proposals with the Dutch accreditation system.
An implication of this proposal will be that adaptation of departmental regulations in all likelihood can only take place during the Autumn 2017 and come into force retroactively on September 1, 2017. As long as there is agreement on the way the new law is implemented and operations are taking place accordingly from September 1 on, this is not deemed to constitute a real problem.

4. **Training facilities for program committee and ACB/ACM members**

As mentioned earlier, the new legislation explicitly entitles members of program committees (and hence ACB and future “ACM” members as well) to training preparing them for their responsibilities as a committee member.

The proposal is to organize joint training programs for program committee members and secretaries, with the possibility for departmental council and board members and program directors to participate as well. The responsibility for the organization of such trainings will be given to ESA Student Facilities (part of the current STU organization), which can then subsequently (in cooperation with the department of purchases) select the best offer. Inventories of the market of specialized agencies are currently being done at the national level. The training programs will be offered in clusters of several departments in cases where the number of program committees within the departments in question is limited.

In terms of budgeting, the costs of these training programs will be divided across the departments based on the number of program committees in each department.

This proposal has been approved by TU/e’s Directors Meeting (DO) on April 25, 2017.

5. **Modification of the regulation on compensation of managerial activities**

TU/e has a regulation in place on the compensation of faculty and student representatives in managerial bodies within TU/e. The new legislation requires modification of the existing regulation.

The Steering Committee’s proposal contains the following elements:

- Since both the departmental councils and the program committees will be representative bodies exercising co-determination rights, the compensation for their members should be identical. Hence the existing compensation for program committee members is increased to the existing level of compensation for departmental council members.
- As the ACB and its master-level equivalent, according to the proposals in this document, is to exercise collective co-determination rights on a limited set of issues in future, compensation for its members will be increased by adding a standard compensation (*forfaitaire vergoeding*) at the same level as already the case for other bodies covered by the regulation.
- While not a consequence of the new legislation, the Steering Committee has noted that in recent years the tasks and responsibilities of Examination Committees have increased substantially, while so far no compensation was offered to members of Examination Committees. The Steering Committee has decided to try and use the occasion by launching a proposal to start offering compensation to Examination Committee members in the form of the same standard compensation (*forfaitaire vergoeding*) already offered to members of other bodies covered by the regulation.

This proposal has been approved by TU/e’s Directors Meeting (DO) on April 25, 2017.
6. **The support of program committees**

The new legislation specifies that program committees should be able to rely on professional support in various areas.

The Steering Committee’s proposal is that there is to be a professional secretary to each program committee, who will be responsible for the direct support of the committee. Additional support can be given by the departmental educational policy advisers and quality assurance officers, while for specialized support the central ESA services can be called upon.

7. **The right to information**

The new law stipulates that all representative bodies are now to receive all information, solicited and unsolicited, in a timely way which can reasonably deemed to be necessary for the fulfilment of their mandate.

The Steering Committee suggests that these bodies seek a dialogue with the boards they are working with to discuss the state of affairs in this regard and where necessary to agree on further arrangements. The way the right to information is exercised could be included in the annual report of the programs including agreements on any improvements deemed necessary.

8. **Program and course evaluation**

The way evaluation within a program is being conducted now has to be described within the Program and Examination Regulations (*OER*). The program committee has the right of consent on this description.

According to TU/e’s model *OER* for next year, the formulation of such descriptions is up to the departments (it is “green text” within the model).

An advice by the Steering Committee would be the following:

- Only include a global, general statement on evaluation within the *OER* itself in order to maintain maximum flexibility, i.e. in order to be able to modify evaluation procedures if needed without having to go through the formal *OER* procedures.
- Introduce a “quality assurance plan” for each program in which the way evaluation takes place within the program is fully described.
- Grant the program committee full co-determination rights (right of consent) with regard to this quality assurance plan.
- An example of a concrete *OER* formulation along these lines would be:

  “The evaluation of education within the program takes place in agreement with the applicable quality assurance plan for the program.”
  
  (“Het onderwijs in de opleiding wordt geëvalueerd conform het voor de opleiding geldende kwaliteitszorgplan.”)
### Timetable

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