

REFERRAL

Referral regarding clarification of which members' rights can't be infringed

Kårhuset Lund, 2023-09-14

Björn Abrahamsson, Chairman of the Union Board 2023/2024



TEKNOLOGKÅREN
VID LUNDS TEKNISKA HÖGSKOLA

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(Please note: This is a translation of the original “Remiss angående förtydligande av vilka medlemmars rättigheter som är oinskränkbara” that is written in Swedish. I wish you to know that the translation might not be 100% clear or correct in all of this document even though I have done my best. The original Swedish version is also the document that will be submitted to the Union Representative Council. For the correct translations of names at Teknologkåren at LTH please see the Guideline for Swedish-English glossary at our web page under governing documents. If you are wondering about the translation or have any other questions regarding this document or referral please contact me, the Chairman of the Union Board Björn Abrahamsson, at so@lth.se and I will try and help you).

1. Summary

At the moment, the By-laws are a bit unclear as to which of the members' rights that can't be infringed if members do not fulfill their obligations. The Union Board proposes that a paragraph be added to the By-laws that clearly states which rights may be restricted if a member does not fulfill their obligations and thus also establishes which rights in the By-laws that can't be infringed upon.

2. Background

2.1. A Student Union's requirements according to the law

The basics of how a Student Union at a University in Sweden should function are laid down in Chapter 4 of the Higher Education Act (1992:1434) (hereinafter referred to as the Higher Education Act). Chapter 4, Section 12 of this Act stipulates the following:

All students within a student union's area of activity shall have the right to be members of the union, if they meet the requirements set for membership in such an association as referred to in § 8.

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The student who is a member of the student union shall have the right to vote in elections to the student union's highest decision-making body.

Law (2009:766).

The rights that a Student Union like the Teknologkåren at the Faculty of Engineering LTH is obliged according to law to give its members are therefore that:

- (1) To be members of the Union if they meet the requirements set for them according to Chapter 8, Section 8 of the Higher Education Act. Briefly, this § 8 (as well as §§ 9-14 referred to therein) means that membership to the Student Union can be applied for and must be granted to anyone who is a student at the University or part of a University that is the Student Union's area of activity.
- (2) To have the right to vote for the Student Union's highest decision-making body.

2.2. Obligations and rights that the Teknologkåren at LTH members have according to the By-laws today

The members' obligations and rights are prescribed in the By-laws of Teknologkåren at the Faculty of Engineering LTH (hereinafter referred to as By-laws). According to Chapter 2 Members, § 2.4 Obligations in the By-laws, members today have the following obligations:

All members are obliged to take into account the Teknologkåren at LTH governing document. Ordinary members must also take into account their Section's statutes and regulations.

An ordinary member is obliged to pay the Teknologkåren at LTH the membership fee the Representative Council has determined.

According to Chapter 2 Members, § 2.5 Rights in the Teknologkåren at LTH's By-laws, members today have the following rights:

All members who have fulfilled their obligations are entitled:

- to *attend the meetings of the Council;*
- to *have documents reviewed by the Teknologkåren's bodies;*
- to *access Teknologkåren's minutes and documents; and*
- to *obtain material published by Teknologkåren.*

Full members who have fulfilled their obligations are also entitled

- to *stand for election to Teknologkåren's volunteer positions;*

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- to *attend the meetings of the Union board;*
- to *participate in Teknologkåren's general elections and general votes on a one person-one vote basis; and*
- to *stand for election in Teknologkåren's general elections.*

Passive members who have fulfilled their obligations are also entitled

- to *stand for election to Teknologkåren's volunteer positions chosen by the Union with the exception of student representative; and*
- to *hold volunteer positions chosen by the Council if elected to them as full members.*

2.3. The current state of members' rights

In the present situation, one can perhaps interpret the By-laws in the matter of rights and obligations in such a way that if a member does not fulfill their obligations according to §2.4 of the By-laws, all the rights listed in §2.5 of the By-laws are open to being restricted. How this is regulated in greater detail in practice is currently described in the Union's Policy for Suspensions and Removals from Office, where, among other things, it is mentioned which specific grounds may be considered for example to suspended a member. Today it is also listed in this Policy that you keep all the rights that an ordinary member has according to the By-laws if you are suspended, which then also includes holding a position of trust or volunteer position for Teknologkåren at LTH or its member Guilds.

The Union Board believes that the member who does not choose to fulfill their obligations by not following the democratically made decisions in the form of governing documents from the Union Representative Council, the Union Board, the Guild meetings or the Guild Boards should have certain rights restricted. But opening up to the fact that all the rights a member has that can be restricted is also problematic. We also believe that it could also be illegal if any rights were to be curtailed in the future that are stipulated in the Higher Education Act, for example the right to vote for the Union Representative Council.

2.4. Clarification for restriction of members' rights

The Union Board therefore wants to clarify which rights can't be infringed upon for any members. At the same time, the Union Board wants to clarify which rights can be infringed upon for members who do not fulfill their obligations and clearly give the Union Representative Council the mandate to make decisions about how a process should be done when rights are to be infringed. We believe that the rights

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stipulated in the By-laws, which are reasonable to restrict when members do not fulfill their obligations, are to run for and hold the Teknologkåren at LTH's volunteer positions (thereby also its member Guilds' volunteer positions) and to stand for election in Teknologkåren at LTH's general elections (which is currently only for member of the Union Representative Council). We believe that if you do not fulfill your obligations, you cannot represent the Teknologskåren at LTH in either the Union Representative Council or through any other volunteer position. We propose that this should therefore be regulated in a new paragraph §2.8 *Infringement of rights* in Chapter 2 of the By-laws. The Union Board considers that the remaining rights in the By-laws should not be able to be infringed upon and therefore proposes to remove the words "*who have fulfilled their obligations*" in §2.5 *Rights*. We believe that the rights in §2.5 (apart from those listed in the new §2.8) should not be able to be infringed upon for the following reasons.

Having the right to have one's cases processed by the Teknologskåren's different bodies is also a part of our main purpose as stipulated in Chapter 4, Section 9 of the Higher Education Act, namely to "*... monitor and participate in the development of education and the conditions for studies at the university*". It is difficult to claim that we conduct study supervision for all members if we do not deal with all members' matters. We also have as a legal requirement according to Chapter 4, Section 11 of the Higher Education Act to "*...be democratically structured and be able to represent the students within the union's area of activity*". It is therefore difficult, according to the Union Board, to argue for restricting the rights to participate in the meetings of the Union Representative Council or the Union Board and to take part of the minutes or publications given out by Teknologkåren at LTH, as this is the core of our democracy. Being able to represent the students means, according to the Union Board, that members must have the right to have matters dealt with and to have the right to comment on matters that are dealt with by the Union Representative Council or the Union Board.

The proposed wording in the By-laws means that if a member of the Union Representative Council has their rights restricted, they will not immediately be dismissed, which is proposed to apply to all other volunteer positions within Teknologkåren at LTH as well as its member Guilds.. This is because a member of the Union Representative Council sits on a personally elected mandate and the Union Board considers that it would not be desirable to dismiss a member of the Union Representative Council in any other way than through an election. Extra elections can be called in accordance with the current chapter 12, §12.12 of the By-laws by the Union Representative Council taking such a decision with a qualified majority of

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three quarters or if 300 members demand it in writing. In such an extra election or in an ordinary Union Representative Council election, members who have had their rights restricted cannot run for this office, even if they are a member of the Union Representative Council at the time.

It is worth mentioning that if the Union Board's proposal becomes reality, the Policy for Suspensions and Removals from Office will need to be revised. But this referral only concerns how the By-laws should be rewritten and not any other governing document.

3. Proposal

The Board of Teknologkåren at the Faculty of Engineering at LTH therefore proposes that under paragraph §2.5 *Rights* of the By-laws under Chapter 2, Members delete the ~~redmarked and crossed out~~ according to the following:

§2.5 Rights

All members ~~who have fulfilled their obligations~~ are entitled:

- to attend the meetings of the Council;
- to have documents reviewed by the Teknologkåren's bodies;
- to access Teknologkåren's minutes and documents; and
- to obtain material published by Teknologkåren.

Full members ~~who have fulfilled their obligations~~ are also entitled

- to stand for election to Teknologkåren's volunteer positions;
- to attend the meetings of the Union board;
- to participate in Teknologkåren's general elections and general votes on a one person-one vote basis; and
- to stand for election in Teknologkåren's general elections.

Passive members ~~who have fulfilled their obligations~~ are also entitled

- to stand for election to Teknologkåren's volunteer positions chosen by the Union with the exception of student representative; and
- to hold volunteer positions chosen by the Council if elected to them as full members.

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The Board of Teknologkåren at the Faculty of Engineering at LTH therefore proposes to add a new paragraph §2.8 *Restriction of rights* to the By-laws under Chapter 2, Members with the following wording:

§2.8 **Restriction of rights**

A member who does not fulfill their obligations may have their rights restricted according to a process decided upon by the Union Representative Council. After a decision to restrict rights, the member loses the following rights:

- to* apply for and hold the Teknologkåren's official positions,
 as well as,
- to* stand for election in the Teknologkåren's general elections

4. **Questions for referral**

The following issues are for the referral bodies to base their opinions on:

- Is it reasonable to infringe on members' rights to run for and hold Teknologkårens' official positions and to stand for election in the general elections at Teknologkåren if they do not fulfill their obligations in the By-laws?
- Do you think there are more rights that are reasonable to infringe if a member does not fulfill their obligations?
- Do you consider that the proposal as it is written in **3. Proposal** in the referral is correctly designed to achieve the desired effect that Board of Teknologkåren proposes or should its content be changed in any way?
- Do anything else need to change in the By-laws to achieve the desired effect that the Board of Teknologkåren proposes?
- Do you have anything else to add?

In the service of the Union Board, day as above

BJÖRN ABRAHAMSSON

Chairman of the Union Board 2023/2024