

Sean Howard Reference Decision

Complaint: May 27th, 2020

Reference Requester: Sean Howard

Respondent: Judicial Board

Majority Decision:

Emily Zunti

Shaina Willison

Jack Alarie

Guila Cohen

Non-Voting Chairperson:

Shai Navi

Statement of Facts

During the Fall By-election of 2014, the CSU implemented a position through a Referendum vote pertaining to the ongoing Israel-Palestinian conflict. This position was added to Section 9: International Affairs of the CSU Positions Book effective immediately. A second referendum was held during the 2020 CSU Elections, whereby multiple positions were voted out of the Positions Book, including the aforementioned position 9.1. On May 27th, the CSU Judicial Board received a reference request by Sean Howard pertaining to the validity of such a position being passed by the CSU in the first place.

Position 9.1 Palestinian Solidarity

Adopted by the Council of Representatives

9.1.1 The CSU is against the disproportionate use of force, the use of chemical weapons, the illegal settlements in Palestine and the blockade on Gaza all caused by the state of Israel.

[Adopted July 23, 2014]

Adopted by the Members

9.1.2 The CSU endorses the Boycott, Divestment and Sanctions (BDS) movement against Israel's occupation of Palestine until Israel complies with International Law and Universal Principles of Human Rights. [Adopted during the Fall ByElection, 2014]

Majority Decision

After much deliberation and consultation with our legal advisor, the Judicial Board finds that the following reference request does not fall within the Judicial Board mandate.

1. The Judicial Board of the Student Union shall, upon the written request of any member or member association, convene to; a. interpret these by-laws and the validity of regulations and resolutions enacted by the Council. b. declare invalid any act of any member who through his or her action derogates from these by-laws or from the constitution of any member association of the Student Union. c. settle disputes on matters concerning the Student Union between its members, officials and/or constituted bodies.

2. It is the duty of the Judicial Board to act upon any violation to By-Laws and constitutions of member associations that comes to light stemming from an ongoing investigation; even if such violations are not directly related to the original complaint.

Furthermore, the regulations outline the Judicial Board's jurisdiction in modifying and harmonizing pre-existing positions. However the reference request pertains to a position that has already been removed from the Positions Book by a subsequent Referendum. Furthermore, no new position has been proposed to replace it.

*89. Should any member feel that a position added to the positions book, following the adoption of a resolution by the members, does not conform to the content of that resolution, he or she shall bring such complaint to the Judicial Board for resolution. The Judicial Board shall be empowered **to modify a position** adopted by the members, in the positions book, based on its ruling in such a case.*

*92. In the case of a conflict or contradiction between a resolution adopted by the members and a position previously adopted through a resolution of the members, the more recent resolution shall take precedence. It shall be the task of the Judicial Board to **harmonize the previous position with the most recently passed resolution.***

However, in hindsight, the Judicial Board recognizes that the decision made by the CSU pertaining to the implementation of Position 9.1 was in breach of the CSU Standing Regulations' Safer Spaces Policy (Book V: Chapter 2).

212. The CSU commits to creating a campus environment free of discrimination, harassment and violence.

213. A safer space is one where conveners are conscious of power dynamics and accessibility factors, and seek to implement mechanism of harm reduction and inclusion.

Safer spaces seek to respect and promote fundamental rights and freedoms as guaranteed by the Quebec Charter of Human Rights and Freedoms, such as the right to life and the security of the person (s.1), the right to dignity and integrity (s.4), and the right to equality without discrimination (s.10) and harassment (s.10.1).

Recommendations

Although the Judicial Board is a branch of the Concordia Student Union that interprets the governing regulations; it is within our right to act upon any violations of the By-Laws as we see fit. Thus, we offer our *obitair dictum* to the policy committee, who legislate and form our governing policies.

Geopolitical Issues

The Judicial Board finds that the adoption of International Geopolitical positions on behalf of the Concordia Student Union leads to a dangerous divide between students. This Judiciary Pool would like to further emphasize that taking political positions that are not domestically related to Canadian politics may lead to a slippery slope and negatively affect the Student Union, as well as its members. The Geopolitical Issues occurring internationally are perilous and discordant; taking stances on these disagreements will unequivocally lead to turmoil between students affected.

Thus, the Judicial Board finds that in the situation the Concordia Student Union decides to send a political position through Referendum; it must be a **domestically related issue**. Furthermore, as seen in Annex 1, the voting records of the Referendum held in the 2014 By-elections demonstrate a **lack of student body representation**. This, in itself, is an indication of the issues lying within the Concordia Student Union referendums.

According to Roberts Rules, until a determined percentage is set; **a simple majority is an indication of a proper quorum**.

Safer Spaces Policy

The Concordia Student Union serves as a safe space for all members; regardless of origin, ethnicity, race, religion, and sexual orientation. According to *Article 213 of the Concordia Student Union Standing Regulations*, the reduction of harm is a **determining** factor of a safe space

*213. A safer space is one where conveners are conscious of power dynamics and accessibility factors, and **seek to implement mechanism of harm reduction and inclusion**. Safer spaces seek to respect and promote fundamental rights and freedoms as guaranteed by the Quebec Charter of Human Rights and Freedoms, such as the right to life and the security of the person (s.1), the right to dignity and integrity (s.4), and the right to equality without discrimination (s.10) and harassment (s.10.1)*

The implementation of *Position 9.1* breaches the above article due to its divisive and discriminatory background. The referendum created a **dangerous environment** for Israeli and Palestinian students, as well as those who are of the Jewish and Muslim religion.

The Judicial Board finds that this Referendum question led to a series of harassment and to a dangerous environment due to the increased level of complaints from the affected parties in Winter 2014. This is a clear indication that the Concordia Student Union failed to create a safe environment for its members.

80. Positions cannot supersede, and are limited by, the By-Laws and these Standing Regulations. Positions cannot contravene Quebec or Canadian law, nor may they contravene the rights provided for under the Quebec and Canadian Charters of Rights and Freedoms.

In addition, *Article 80 of the Standing Regulations* indicates that Positions implemented by the Concordia Student Union are subject to the Safer Spaces policy. Thus, the Referendum question taken in 2014 breached the above article and should have been subject to annulation.

Conclusion

According to the Judicial Board Mandate, our membership pool serves to interpret and apply the Standing Regulations and By-laws to issues within the Concordia Student Union. Due to the removal of Position 9.1 from the Concordia Student Unions positions book, this board cannot make any binding decisions in relation to it. This decision is in accordance with *Standing Regulation 89 and 92*.

However, it is our duty as Concordia Student Union representatives to offer our opinion and recommendations in reference to this issue. The Judicial Board finds the previously adopted Position 9.1 to be divisive and in breach of the Safer Spaces Policy of the Concordia Student Unions Standing Regulation.

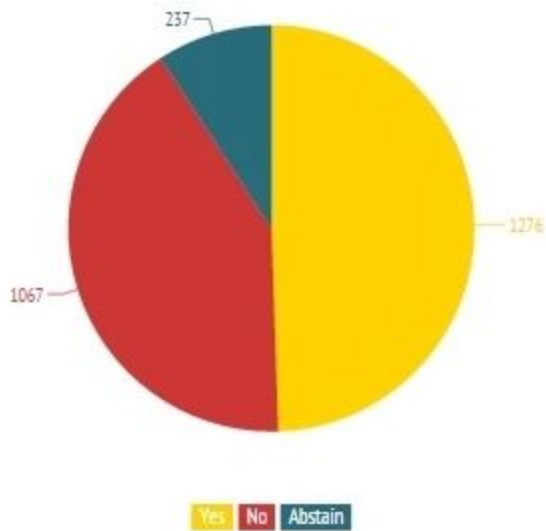
In addition, this membership pool would like to emphasize that this referendum question relates to issues beyond the proximity of understanding for the Concordia Student Union. The conflict in question is related to an international geopolitical issue that entices violence and creates a dangerous environment for students on campus.

Furthermore, it is important to note the adoption of the Position was determined by a 7% quorum. We would like to reiterate that voter turnout is an underlying issue within the Concordia Student Union that must be resolved.

Annex 1

CSU Official BDS Ballots Results

 **2,580**
Total number of votes.



source: Concordia Student Union (CSU) official Facebook page