



THE OMBUDSMAN FOR ACADEMIC ETHICS AND PROCEDURES OF THE REPUBLIC OF LITHUANIA

DECISION REGARDING COMPLAINT OF TRADE UNION OF PUBLIC INSTITUTION EUROPEAN HUMANITIES UNIVERSITY OF 20 FEBRUARY 2015

20 August 2015 No. SP-19

Vilnius

The Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter – Ombudsman), <...> examined the complaint of the Trade Union “EHUnion” of the employees of PI European Humanities University, represented by its chairperson Constantine Tkachyov (hereinafter – applicant), received in the Office of Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter – Office of Ombudsman) on 20 February 2015, the submitted material and **determined that:**

The applicant in his complaint indicates that the Rector of European Humanities University (hereinafter – EHU):

1. On 22 May 2014 issued the Order No. 01-148 “On Appointment of Lecturers of Public Institution European Humanities University for 2014–2015, 2015–2016 Study Year” (hereinafter – Order No. 01-148) by which he ordered to admit a certain number of lecturers to academic units “without applying public competition procedures and conclude fixed-term employment contracts with them <...> for a period not longer than 2 years”, as well “to assign the heads of the Academic departments (...) to prepare proposals on personal invitations to take up a lecturer’s functions in a respective department”, “to recommend the heads of the Academic departments to familiarise the department lecturers who won the public competition of 2014 with their proposed personal appointments and, if possible, take into account their recommendations”; also by this order he set up a Commission for assessment of proposals submitted by the heads of the departments (hereinafter – Commission) that may invite “for personal interview any proposed candidate” and submit its recommendations to the Rector;

2. On 28 July 2014 issued the Order No. 10-124 “On Admission of EHU Invited Lecturers for 2014–2015 Study Year“ (hereinafter – Order No. 10-124) in which he presented the list of the lecturers invited to read lectures in EHU in 2014–2015 study year.

The applicant in his complaint notes that the preamble of the Order No. 01-148 indicates the basis for the order issuance to be the point 10.3.13 of the Statute of EHU (signed on 11 June 2011; hereinafter – Statute of EHU) which sets forth that the Rector “with regard to a recommendation from the Pro-Rector, curating a corresponding activity field, employs and dismisses staff; calls competition for positions, appoints persons to these positions and dismisses from them in accordance with the procedure set forth in this Statute and other legal acts”. As the applicant indicates the Statute of EHU does not provide for stipulations for invited lecturers to be appointed in another way than public competition, as appointment other than following public competition is not regulated in the Statute of EHU.

The applicant in his complaint states that the above mentioned Orders No. 01-148 and No. 10-124 possibly contradict the points 14.4, 14.6 and 9.3.5 of the Statute of EHU and recommendations on setting up of a commission for appointment of EHU lecturers and researchers and validity of decisions of this commission presented in the Resolution No. SP-2 of the Ombudsman of 30 April 2014. The applicant in his complaint states that “by applying different procedures preconditions were created to admit some lecturers to positions of lecturers in a non-transparent way, i.e. without applying any objectively and legally justified requirements to become lecturers at EHU, thus violating the principle of equal opportunities to participate in a competition embedded in the Law on Higher Education and Research <...>“.

The applicant requests the Ombudsman “to start investigation on violations of academic ethics and procedures embedded in the Statute of EHU, inform European Humanities University and the Ministry of Education and Science about the violations of the Statute of EHU”.

<...>

The point 10.3.2 of the Statute of EHU provides for that the Rector “implements resolutions of the Managing Council” and the point 10.3.13 sets forth that the Rector “with regard to a recommendation from the Pro-Rector, curating a corresponding activity field, employs and dismisses staff; calls competition for positions, appoints persons to these positions and dismisses from them in accordance with the procedure set forth in this Statute and other legal acts”.

The Ombudsman notes that the title and the content of the Order No. 01-148 does not contain information that the Order regulates namely appointment of invited lecturers, such formulation of the Order is inaccurate and misleading.

In its letter No. 192 of 29 April 2015 EHU stated that the invited lecturers were admitted by the Orders No. 01-148 and No. 10-124. As noted by EHU, “while admitting the invited lecturers to work the university followed exclusively the article 61 of the Law on Higher Education and Research”.

The article 61 of the Law on Higher Education and Research provides for that “study and research institutions may invite lecturers and researchers to work under a fixed-term employment contract for a period not longer than 2 years” and that „the procedure of appointment to positions set forth in this Law is not applicable to invited lecturers and researchers”.

In its letter No. 207 of 15 June 2015 EHU additionally stated that “during admission of the invited lecturers to work the provision of then valid Statute of EHU enabling the Rector to *employ staff* (both academic and administrative in accordance with the procedure established by the legal acts) was followed. <...> The provision of the Statute of EHU on call of competitions for positions is not applicable to invited lecturers as they are admitted (employed) not in the way of competition <...>“. In the mentioned letter EHU emphasized that the Rector only shall follow the part “*calls competitions for positions*” of the provision of the Statute of EHU when employing employees to positions taken by the way of competition (for instance, lecturers admitted to work in accordance with the procedure set forth by the Article 65 of the Law on Higher Education and Research). <...> Lecturers who are admitted to work by the way of competition are not called invited lecturers and 5 year fixed-term or permanent employment contracts are concluded with them <...>”.

The Point 14.6 of the Statute of EHU sets forth that “a university may invite lecturers and researchers from other Lithuanian and foreign research and study institutions”. As EHU stated in the above mentioned letter “when inviting lecturers to work in accordance with the Article 61 of the Law on Higher Education and Research and study institutions are not bound by any procedures and select freely persons (lecturers), whom they employ to read lectures at a higher school”.

With regard to the aforementioned, it should be concluded that the title and the content of the Order No. 01-148, which do not contain information that the Order regulates namely appointment of invited lecturers, are misleading with regard to the will and intentions, stated in the letter of EHU, of the subject issuing this order, i.e. the Rector of EHU, therefore they should be made clearer.

<...>

In accordance with the article 61 of the Law on Higher Education and Research and with regard to the point 14.6 of the Statute of EHU which sets forth that “a university may invite lecturers and researchers from other Lithuanian and foreign research and study institutions”, it should be concluded that EHU is entitled to employ the chosen invited lecturers at a higher school. It should be noted, however, that the Ombudsman did not have a possibility to assess if the invited lecturers, listed in the Order No. 10-124, complied with the requirements set forth in the point 14.6 of the Statute as EHU failed to submit information on work of the invited lecturers in other Lithuanian and foreign research and study institutions by indicating in its letter No. 207 of 15 June 2015 that it “does not compile and keep data on work of the employees (invited lecturers) in other agencies or organisations, therefore it cannot submit <...> the requested information (names of other employers of the lecturers and their functions at those employers)”.

The Ombudsman decided:

To declare the applicant`s complaint unfounded.
