



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

REGARDING THE COMPOSITION OF THE SENATE OF KAUNAS UNIVERSITY OF TECHNOLOGY

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Vilnius

The Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Ombudsman), in accordance with Part 1 of Paragraph 18 of the Law on Higher Education and Research of the Republic of Lithuania and with Subparagraph 13.1 of the provisions of the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania, approved by the Resolution No. XI-1583 of the Seimas of the Republic of Lithuania of 15 September 2011 “Regarding the establishment of the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania and the approval of the provisions of the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania“ (hereinafter - the Provisions), by Subparagraph 13.1, and after examination of the complaint of the applicant V.J. (hereinafter - the applicant¹) received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 22 April 2016 regarding the composition of the Senate of Kaunas University of Technology, and the provided material,

determined that:

In the complaint for the Ombudsman, the applicant doubts “<...> whether the statute of KTU was rightly followed in the procedures of the election of the Senate, and whether [the member of the Senate I. B.] was legally elected <...>“ and requests “to provide the authoritative explanation whether [the member I. B.] of the Senate was legally elected <...>“ (the information provided in the square brackets is ours).

The ombudsman, by the letter No. S-197 of 27-04-2016, addressed to the rector of Kaunas University of Technology, requesting to provide “1) the legislation regulating the procedure of electing the members of the Senate of Kaunas University of Technology (hereinafter - KTU); 2) the protocol(s) of the meeting on the election of the members of the currently operating Senate of KTU; 3) the protocol of the meeting of the Senate of KTU of 13-04-2016; 4) the documents supporting the status of the [member I. B.] of the Senate of KTU in KTU.“ Kaunas University of Technology did not answer to the mentioned letter (the information provided in the square brackets is ours).

The ombudsman, by the letter No. S-234 of 31-05-2016, repeatedly addressed to Kaunas University of Technology regarding the provision of the necessary information and documents. Kaunas University of Technology, by the letter No. DV10-00523-2 of 06-06-2016, provided the necessary documents to the Ombudsman and explained that the member of the Senate of Kaunas

¹ “Applicant” in the text of the Ombudsman’s decision is given generally as a noun of masculine gender without linking it to the sex of the applicant

University of Technology I. B. “<...> [was elected] to the Senate of Kaunas University of Technology as [the scientist] of other high school; such possibility is determined by Part 5 of Article 21 of the Law on Higher Education and Research, in which it is provided that the members of the Senate may be “<...> the scientists, lecturers and distinguished artists of other higher education and research institutions“ and by Paragraph 40 of the statute of KTU, in which it is provided that “the members of the Senate may be the members of the academic community, administration members who get into the Senate according to the positions, as well as the eminent scientists, lecturers, distinguished artists and students of other higher education and research institutions“. Therefore, the status [of the member of the Senate I. B.] in KTU is not related with [his] membership in the Senate of KTU. <...>“ (the information provided in square brackets is ours).

Kaunas University of Technology provided the certificate No. 2-745 of 31-05-2016 on the work in the university. It is indicated in the certificate that the member of the Senate works as the visiting professor at 0.3-time in the second position at the Department of Management of Faculty of Economics and Business of Kaunas University of Technology.

The protocol No. V22-06-49 of the meeting of the scientists and distinguished artists for the election of the members of the Senate of 22-03-2016 shows that at the meeting of 22-03-2016 there was considered “<...> whether the person, who does not work in the main position in KTU and who is the representative of other institution, stand for election to the members of the Senate. <...>“.

At the meeting of the Senate of 13 April 2016, “<...> Human Resources Director Mr. Šmaižys explained that the right to be elected to the Senate and the right to elect members of the Senate are assumed by two separate Paragraphs - 40 and 42 - of the Statute. According to him, Paragraph 40 of the Statute, which provides the right to be elected as the member of the Senate, determines that the members of the Senate also may be “the eminent scientists, lecturers, distinguished artists and students of other higher education and research institutions“. But nowhere is set that they must be employed at the University. According to P. Šmaižys, it is guided by logic, that Paragraph 40 is like an umbrella, that it generally shows who may be the members of the Senate, and Paragraph 42 specifies who have not only the right to be elected, but also the right to be an elector. <...> [Lawyer G. M.] suggested to pay attention to how [the member of the Senate I. B.] was [elected] to the Senate: as [the representative] of other institution, or as [the employee] of the University. According to [the lawyer G. M.], if [the member of the Senate I. B.] was [elected] as [the employee] of the University, Subparagraph 2 of Paragraph 42 of the Statute should be applied, and if he was elected as [the representative] of other institution - Paragraph 40 should be applied <...>“ (the protocol No. V1-S-4 of the meeting of the Senate of 13-04-2016) (the information provided in the square brackets is our).

In Part 4 of Article 21 of the Law on Higher Education and Research of the Republic of Lithuania it is stated that “the Senate (the academic council) is formed in the order set in the statute of the high school <...>“. Part 5 of the same Article provides that “the members of the Senate (academic council) may be the members of the academic community of the university (college), administration members who get into the Senate (academic council) according to the positions, as well as the eminent scientists, lecturers, distinguished artists and students of other higher education and research institutions <...>.“

Paragraph 40 of the Statute of Kaunas University of Technology (Appendix 1 to the Resolution No. XI-1194 of 30-11-2010 (new version of the Resolution No. XI-2149 of 28 June

2012 of the Seimas of the Republic of Lithuania)) (hereinafter - the Statute) sets that “the members of the Senate may be the members of the academic community of the University, administration members who get into the Senate (academic council) according to the positions, as well as the eminent scientists, lecturers, distinguished artists and students of other higher education and research institutions. <...>”.

Paragraph 42 of the Statute regulates the procedures of election of the members of the Senate, except the representatives of students. Attention is drawn to the fact that Subparagraph 2 of Paragraph 42 of the Statute determined the Senate’s election right and the right to be elected for every scientist and distinguished artist, if they hold the main positions and work at least 0.5-time in the University, in the present case - in Kaunas University of Technology.

It should be noted that the procedure of the Senate’s formation is not regulated without Paragraph 42 of the Statute. Moreover, in the Statute and in any other legislation of Kaunas University of Technology, there are not distinguished the procedures for the election of the eminent scientists, lecturers, distinguished artists and students of other higher education and research institutions to the Senate. Attention is drawn to the fact that Paragraph 42 of the Statute indicates only the exception of the election of the representatives of students to the members of the Senate.

The above legal regulation shows that Paragraph 40 of the Statute is applicable to any person who makes a claim to the members of the Senate, except the representatives of students, and there is no reason to apply Subparagraph 2 of Paragraph 42 of the Statute only to the staff of Kaunas University of Technology.

In view of the foregoing, it can be stated that the election of I.B. as the member of the Senate of Kaunas University of Technology contradicts to Subparagraph 2 of Paragraph 42 of the Statute in that scope, in which it is determined that “<...> every scientist and distinguished artist, who holds the main position and works at least 0.5-time in the University, has the right to be elected to the members of the Senate“.

After the evaluation of the information provided by the applicant, Kaunas University of Technology and the supporting documents as well as the legal regulation, and in accordance with paragraph 1 of Part 12 of Article 18 of the Law on Higher Education and Research, the Ombudsman

decided:

To inform Kaunas University of Technology and the Ministry of Education and Science about the violation of the procedures of the election of the Senate determined by the Ombudsman.

The Ombudsman’s decision may be appealed in the order set by the Law on Administrative Proceedings of the Republic of Lithuania.
