



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

REGARDING THE COMPLAINT OF J. L. OF 5 JULY 2016

27 September 2016, No. SP-18
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“, by Subparagraph 2016 of Paragraph 13.1, after examination of the complaint of J. L. (hereinafter - the applicant ¹) received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 11 July 2016 regarding possible violations of the procedures for admission to doctoral studies at Vilnius University and the provided material,

determined that:

The applicant in his complaint to the Ombudsman complains about the procedures applied in respect to the applicant for admission to doctoral studies at Vilnius University:

The applicant states that “<...> at the time of the admission, there were evaluated both the interview and the project. <...> it is unclear whether the research works and the average of the study scores were included in the calculation of scores as the evaluative research works. <...> Some candidates for doctoral students talked to one commission, and the others - with the separate commission. This in itself creates conditions for non-objective assessment because some candidates were assessed and scored by one group of persons, and the other candidates - by the other group. <...> the commission was not composed of that persons who were indicated in the list of the commission on the website of Vilnius University. <...> Although is declared that the works are evaluated anonymously, the work had to be sent by e-mail and brought with the signature, where the name and surname are seen. <...> At coming to the interview, nobody asked to show the personal identification document in order to determine whether I am the same person who registered. <...> The results of the admission were announced on 05 07 2016, although my appeal regarding the violations of the admission procedures was registered on 04-07-2016. Department of Doctoral and Residency Studies did not stop the process of publication and did not wait until the rector could examine the appeal addressed to him.”

The applicant requests:

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

“<...> to investigate whether the admission to doctoral studies was organized in accordance with the laws, whether all the candidates <...> filled the required data in the information system of Vilnius University <...>, whether all the members of the commission were present at the time of admission, whether both the project and the interview were legally evaluated, whether it was necessary to show the personal identification document before the interview <...>, how the identity was determined, whether the anonymity was ensured at the assessment of works, why 2 commissions were formed for one faculty and why the candidates of one group received 4 study positions, and from the other - only 1 position (in total 5 doctoral positions were given, two commissions create the assumptions for not objective assessment, moreover, according to the documents of Vilnius University it is announced that a commission is formed, but not the commissions), whether the legal documents do not contradict to each other, in accordance to which the admission to the doctoral studies is organized <...> whether Vilnius University had to stop the process of the announcement of the admission / results, if it was appealed regarding the violations, until the situation would be clarified.“

The complainant pointed out and provided questions to the Ombudsman:

“<...> although the appeal was addressed to the Rector, it was answered by the other person, who only deputizes the chairman of the doctoral studies of the philology direction.

<...> what is the period within which the appeal regarding the results of the doctoral studies can be submitted.“

The Ombudsman, by the letter No. S-275 of 28-07-2016 addressed to Vilnius University requesting to provide the information necessary for examination of the complaint:

“1) to submit the joint regulation on doctoral studies of Vilnius University and the Institute of Lithuanian Literature and Folklore of philology direction (04H) <...>, the rules on admission to the doctoral studies of Vilnius University at Vilnius University of 2016 and the selection forms approved by the order No. D-402 of 28-04-2016 of the Rector, and the order of the admission to the doctoral studies of the philology direction set by the Doctoral Studies Committee of the philology direction;

2) to submit the order No. D-403 of 28-04-2016 of Vice rector “Regarding the approval of the commissions on the selection for doctoral studies“ and the legislation regulating the activity of the commissions performing doctoral studies at the Faculty of Philology;

3) to submit the protocol of the Doctoral Studies Committee of 2016 of the admission to the doctoral studies of the philology direction at Vilnius University, on the basis of which the candidates are admitted to the doctoral studies;

4) to submit the protocols of the selection of the candidates for the doctoral studies that was performed by the commission in 2016 at the Faculty of Philology;

5) to submit the data supporting the structure of competitive scores of all candidates who participated in the competition on the admission to the doctoral studies of the philology direction in 2016 at Vilnius University (projects, interviews and calculation of the average grade points in the Master's Degree Diploma Supplement);

6) to indicate the evaluation criteria for the research works provided by the candidates for the competition on the admission to the doctoral studies of the philology direction at Vilnius University; to submit the data supporting the evaluation; to explain and justify the influence of the evaluation of the research works on the evaluation of the interview;

7) to indicate the method of provision of the research works of the candidates who participated in the competition on the admission to the doctoral studies of the philology direction at

Vilnius University; to indicate the data supporting the provided research works and / or conference reports of all the candidates, in conjunction with a person;

8) to submit the data supporting the sending of the projects by the candidates to the members of the commissions and the data supporting the anonymity of the candidates;

9) to submit the evaluation of the projects by the member of the commission <...>;

10) to submit the documents supporting the competitive order of the candidates to the doctoral studies;

11) to indicate the term within which the appeal regarding the results of the admission to the doctoral studies must be made.“

On 31-08-2016 Vilnius University informed by e-mail that the message sent to the Ombudsman by e-mail on 28-07-2016, was not sent due to an error, therefore, the message was repeated: “at this time, all participants of the doctoral process are on vacation. We do not see any sense to cancel employees from vacation, moreover, the part of them are abroad. We think that Vilnius University can submit the required documents after 26 August.“

By the letter No. 12300-SR-1250 of 05-09-2016, Vilnius University provided the following information:

“- the joint Regulation on Doctoral Studies of Vilnius University and the Institute of Lithuanian Literature and Folklore of philology (04H) is announced on the website of the University <...>;

- the rules on admission to the doctoral studies of Vilnius University at Vilnius University of 2016 are announced <...>;

- the selection forms approved by the order No. D-402 of 28-04-2016 of the Rector are announced <...>;

- the order of the admission to the doctoral studies of 2016 set by the committee of the doctoral studies of the philology direction is announced <...>.

The interview with the candidates to the doctoral studies, during which the members of the Commission also take into account the research works published by the candidates, is equivalent to the oral examination, it is not recorded. Each member of the commission evaluates the candidates, and then the average of estimates is calculated. The results are written to the summary table, which is signed by the chairman of the commission. The doctoral committee relies on these estimates made by the commission in concluding the competitive order of the entrants.

We would like to inform that the entrants to the doctoral studies should submit the list of the research works together with other documents when filling the application for admission to the doctoral studies in the entrants online service system (ISAS) of the University, and bring the copies of the research works to the interview.

The criteria, on which the members of the commission rely when assessing the projects of the entrants to the doctoral studies of the philology direction, are indicated in the order of admission to the doctoral studies in 2016 set by the committee of the doctoral studies of the philology direction.

In accordance with Paragraph 28 of the Regulation of Vilnius University and the Institute of Lithuanian Literature and Folklore of the philology direction (04H):

“A person who submits the application to participate in the competition on admission to the doctoral studies and who is not admitted or disagrees with his designated topic of the thesis, within three days after the announcement of the protocol of the Committee may:

-submit a reasoned request or appeal to the Committee;

- upon the receipt of the negative response of the Committee, within three days, he can appeal to the Rector of the University or the Director of the Institute.“

After the analysis of the information provided and indicated by Vilnius University, legal regulation and taking into account the actions appealed by the applicant, it was determined that:

1. Paragraph 19 of the joint Regulation on Doctoral Studies of Vilnius University and the Institute of Lithuanian Literature and Folklore for the humanitarian studies in the philology direction (04H) (hereinafter - the Regulation) states that “in the competition on the doctoral studies may participate the persons who have the master's degree qualification or equivalent higher education. The candidates shall submit the following to the Department of Doctoral and Residency Studies or to the commission of the doctoral studies:

“<...> 19.5. the list of their research works and the printouts of the works, conference reports, works awarded at academic competitions; <...>“. Paragraph 10 of the Rules sets that “The application is considered as registered, if all the parts of the entrants online service system (ISAS) of the admission to the third level education are filled, i.e. the personal data of the entrant, information on acquired education, other necessary data; and if the copies of the supplements are attached:

<...> 10.5. the list of his research works and / or conference reports <...>.“

In view of the foregoing it can be concluded that the requirement to have the master's degree qualification or equivalent higher education is applied to the persons participating in the competition on the doctoral studies, and the requirement to fill all the parts of the entrants online service system (ISAS) of the admission to the third level education and to provide the copies of all mentioned supplements are not provided by the legislation.

2. There is no separate legislation regulating the activities of the commissions performing the doctoral studies in the Faculty of Philology (the legislation was not submitted), as well as there is no requirement to form only one commission performing the selection to the doctoral studies, however, the attention is drawn to Paragraph 15 of the Regulation of Doctoral Studies of Vilnius University (approved at the meeting of the Commission of the Senate of Vilnius University, resolution No. SK-2010-10-78 of 3 June 2010) in which it is stated that “<...> by the provision of the Doctoral Committee, the order of the Rector in accordance with the commission of the science direction commission of the entrant to the doctoral studies.” (underlined by us).

It should be noted that other differentiation of the commissions, i.e. not by the scientific direction, is not regulated in the legislation of Vilnius University.

Moreover, Paragraph 13 of the Regulation of the doctoral studies of Vilnius University states that “State financed doctoral study positions for each field of science are determined by the Ministry of Education and Science in accordance with the outcomes of research and doctoral studies. The study positions are distributed among the core academic units of the University by the Order of the Rector.<...>”

After the evaluation of the foregoing, and in accordance with the legislation in force, the violations of the procedure of the formation of the mentioned commissions and of the distribution of the positions of the doctoral studies were not determined.

3. Paragraph 15 of Vilnius University Regulation on Doctoral Studies states that “The criteria for enrolment are: an examination or a research project or an interview <...>“. Paragraph 21 of the Regulation states that “The criteria for enrolment are: a research project or an interview, which are evaluated by a system of grades. The competitive score is calculated taking in regard the applicant's grade point average and the merits of his research works.

In accordance with the selection criteria, the Doctoral Studies Committee forms the competitive order of the candidates to the doctoral studies, which is formalized by the protocol resolution <...>“.

The extract from the protocol of the meeting of the Doctoral Studies Committee of the philological direction of 30-06-2016 provided by Vilnius University shows that in concluding the competitive score of the candidates and in establishing the competitive order at the meeting of the Committee, it was relied on “the evaluations of the research project and the interview <...>, adding the average grade points in the Master's Degree Diploma Supplement <...> (underlined by us).

Paragraph 4 of the rules on the admission to the doctoral studies at Vilnius University in 2016 (hereinafter - the Rules) determines that “the competitive score consists of the sum of the evaluations of grade point average of the Master's Degree Diploma Supplement (or certifying the equivalent qualification) and the selection procedure (entry examination, research project or interview).” Paragraph 6 determines the “the sequence of the admission procedure: <...> 6.3. selection procedure (preparation of the research project, if such provided, the entrance examination or interview); <...>.” (underlined by us. By the rector’s order No. D-402 of 28-04-2016, there were approved the forms of selection to the doctoral studies according to the directions of science. The form of selection in the humanitarian studies in the philology direction is the research project or the interview.

The evaluation criteria for the research works published by the candidates were not determined (the information about such criteria was not provided). The data supporting the evaluation of the published research works, the explanations and the justification of the influence of the evaluation of the research works on the evaluation of the interview were not provided. Vilnius University explained only to the extent that the members of the commission take into account the published research works of the candidates. The procedure of admission to doctoral studies announced on the website of the Faculty of Philology of Vilnius University (hereinafter - the Procedure) sets that “the project and the interview are evaluated at a 10-point system by the committee on the entrance examination to the doctoral studies of the Faculty of Philology approved by the Rector (the mark is written after the calculation of the arithmetic average of the evaluations given by all members of the commission)’, although the published research works brought to the interview are taken into account. It should be noted that the legislation of Vilnius University does not regulate the procedure of such consideration of the research works, but “in concluding the competitive score <...> the research works are evaluated.” (Paragraph 21 of the Regulation).

The texts of the previously provided legislation (Vilnius University Regulation on Doctoral Studies, the Regulation and the Rules) show that the provisions are not harmonized, and the regulations of the Regulation and the Rules do not detail Vilnius University Regulation on Doctoral Studies, but set a new legal regulation, although the alternative of other regulation is not established in Vilnius University Regulation on Doctoral Studies. In addition, the inconsistency of the provisions of the Regulation and the Rules creates confusion in determining which legislation was and which should be applied in a particular case. Such practice of the legislation application would be faulty in terms of different assessment of the candidates.

In view of the foregoing, it can be concluded that regulation of the procedure of the evaluation of the research project, interview and published research works of the entrant to the doctoral studies is unclear, insufficient and uncoordinated in terms of the application of selection criteria, the calculation of the competitive score and the conclusion of the competitive order.

4. The method of provision of the research works of the candidates who participated in the competition on the admission to the doctoral studies of the philology direction at Vilnius University in 2016, as well as the data supporting the provision of the research works and / or conference reports of all the candidates were not indicated, therefore, the Ombudsman did not evaluate these circumstances.

5. *The legislation, that were published and provided by Vilnius University, do not regulate the procedure of the identification of the entrant to the doctoral studies during the interview.*

6. Vilnius University provided to the Ombudsman the messages sent by e-mail on 21-06-2016 with the attached research projects of the entrants that are addressed to the members of the commission on selection to the doctoral studies, who are not named, but only numbered. The texts of the depersonalized research projects were not submitted to the Ombudsman, therefore, the Ombudsman could not assess whether the anonymity of the research projects was ensured.

7. Paragraph 28 of the Regulation determines that “A person who submits the application to participate in the competition on admission to the doctoral studies and who is not admitted <...>, within three days after the announcement of the protocol of the Committee may:

- submit a reasoned request or appeal to the Committee;
- upon the receipt of the negative response of the Committee, within three days, he can appeal to the Rector of the University or the Director of the Institute.“

The appeal submitted by the applicant which was addressed to the Rector of Vilnius University shows that the applicant, in accordance with Paragraph 28 of the Regulation, primarily had to submit the appeal to the Committee.

It should be noted that *the legislation of Vilnius University does not regulate the procedure carried out during the consideration of the appeal.*

In view of the foregoing, and after the evaluation of the relation between the legal regulation and the application of the selection criteria, competitive score and conclusion of the competitive order, and the fact that “interview with the candidates to the doctoral studies, during which the members of the Commission also take into account the research works, <...> is not recorded“, although in concluding the competitive score, as it is set in Paragraph 21 of the Regulation, the research works should be evaluated, it can be stated that such procedure of the competition performance is faulty in terms of implementation of the principles of objectivity, transparency, equal rights to participate in the competitions and fair competition, and creating the obstacles in determining the circumstances supporting the objective and transparent conduct of the competition, ensuring fair competition of the candidates.

After the evaluation of the information submitted by the applicant, Vilnius University and the supporting documentation as well as the legal regulation, and in accordance with Paragraph 9 of Part 12 of Article 18 of the Law on Higher Education and Research of the Republic of Lithuania, the Ombudsman

decided:

To inform the Ministry of Education and Science and Vilnius University about the decision of the Ombudsman.

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