



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

### REGARDING THE ACTIONS OF THE ADMINISTRATION OF MYKOLAS ROMERIS UNIVERSITY

3 October 2016, No. SP-19  
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 and request of the applicant G. S. (hereinafter - the applicant, student<sup>1</sup>) received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 23 May 2016 regarding the actions / failure to act of the Administration of Mykolas Romeris University (hereinafter - the complaint) and the provided material,

#### **determined that:**

The applicant in his complaint complains the actions / failure to act of the Administration of Mykolas Romeris University. The applicant states that “<...> In all cases, at the end of the semester it was allowed to repeat the examinations, but in this case, for some reasons, it was not allowed to do so. <...> Disproportionately too little time (only one semester) was given to retake the failed examinations or credits. <...> When I was writing the request for transfer to the listeners, I was misled and voluntarily removed from the list of students.“

The applicant requests:

- “1. To oblige the university to return <...> illegally deprived student status;
2. To oblige the university to create conditions to repeat the last 2 examinations of the examination session once without paying for it and without the condition to repeat the course of subjects;
3. To oblige the university to return the payment of <...> EUR;
4. To evaluate other provided information.“

The Ombudsman, by the letter No. S-269 of 08-07-2016 addressed to Mykolas Romeris University requesting to provide the documents necessary for examination of the complaint.

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<sup>1</sup> “Applicant”, “student” 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

After the analysis of the documents provided by Mykolas Romeris University, the Ombudsman, by the letter No. S-294 of 09-08-2016, addressed to Mykolas Romeris University and requested to provide the following information:

“1) to indicate what academic debts had <...> the student [G. S.] in 2014. To submit the supporting documents;

2) to answer, whether the student [G. S.] registered in IS “Studijos“ in 2014 regarding the retaking of the academic debts. If yes, to provide the documents supporting such registration;

3) to specify the terms of taking the examinations of the spring session of the law studies set by the Bachelor's degree program of the Faculty of Law of Mykolas Romeris University of 2014. To submit the documents supporting the requested terms (schedules of examinations and / or others);

4) to specify the set term of the retaking of the academic debts of the spring session of the mentioned studies and the conditions in case of failure to pass the examinations. To submit the documents supporting the requested term (schedules of examinations and / or others);

5) to specify the legislation governing the removal from the list of students / listeners and the procedure of notification of the student / listener about the removal. To specify the term within which the student / listener, if necessary, must be removed from the list of students / listeners;

6) to indicate the basis for the termination of the agreement <...> concluded on 05-09-2011 between Mykolas Romeris University and the student who studies at the position that is not financed by the state, and to submit the document supporting the termination of the mentioned agreement;

7) to indicate the basis for the termination of the agreement <...> concluded on 15-09-2011 between Mykolas Romeris University and the listener, and to submit the document supporting the termination of the mentioned agreement“ (the information in the square brackets is ours).

Mykolas Romeris University, by the letter No. 24T (11.21-20401)-209 of 26-08-2016 replied that:

The applicant studied from 1 September 2011 to 9 July 2014.

“At the end of the spring semester of 2013-2014, [the student] had five (5) academic debts: Semester 1: <...> (credit), <...> (examination); Semester 2: <...> (examination); Semester 6: <...> (examination), <...> (examination).“

The student “did not registered for the retaking of the credit and examinations in IS “Studijos”.”

“The examination session of the spring semester of 2013-2014 took place from 2 June 2014 to 29 June 2014. The existing debts are calculated at the end of the semester. The end of the semester - 30 June. The student could take the debts from the previous semesters since the spring semester of 2012.”

“On 4 July of 2014 there was received the [student’s] request for admission to the University listeners. By the Rector’s order of 9 July 2014 <...>, [the student] was removed from the list of students and admitted to the University listeners <...>“

On 15 September 2014, the listener [student] signed the Study agreement <...>, which contains the study subjects and the validity term until 30 June 2015.”

“In 2014-2015 [”the student] did not registered for the taking of the examinations and credits in IS „Studijos“.

“By the Rector’s order of 17 September 2015 <...>, [the applicant] was removed from the list of listeners after the validity term of the Study agreement.” (the information in the square brackets is ours).

In the examination of the complaint and in the event of uncertainty, on 9 September 2016 it was addressed “by e-mail to Mykolas Romeris University requesting “to indicate the provision of the Study agreement <...>, which sets the validity term of the agreement until 30 June 2015; <...>”.

By the letter No. 24T(11.21-20401)-4, Mykolas Romeris University replied that “On 15 September 2014 the listener [applicant] <...> signed the Study agreement <...>, which contains the study subjects and the validity term until 30 June 2015. Part II of the Study agreement “Th Subject of the Agreement” indicates the selected study subjects and the study period. The listener must take the examinations of the selected studies until the specified deadline.”

After the analysis of the information provided by Mykolas Romeris University, the legislation and taking into account the actions appealed by the applicant, it was determined that:

1. The schedule of classroom courses and examinations of the autumn and spring semesters of academic year of 2013/2014 of the Bachelor's and Master's continual studies shows that the examination session of the autumn semester for the I-III courses is set from 30 December 2013 to 26 January 2014, the holidays are provided from 27 January. The examination session of the spring semester for the I-III courses is set from 2 June 2014 to 29 June 2014, the holydays are provided from June 30.

Paragraph 71 of Mykolas Romeris University Study Procedure approved by the Resolution No. 1SN-17 of 27 January 2011 of the Senate (hereinafter - the Procedure) sets that “the year of study at the University begins on 1 September and ends on 31 August, including holidays”. Paragraph 72 of the Procedure sets that “the year of study is divided into semesters and holiday periods. Generally, the year of study consists of two semesters: autumn and spring. <...>”. Paragraph 99 of the Procedure sets that “the examination or other report failed to be passed on the time settled in the timetable or on other time of the schedule, is considered as an academic debt.” Paragraph 100 of the Procedure: “The student or listener who did not pass the examination (did not receive the credit, non-certified) has the right to repeat this report once for free.” Paragraph 23 of the Order of Evaluation of Study Results of Mykolas Romeris University approved by the resolution No. 1SN-30 of 16-03-2012 of the Senate sets that “the timetable for debt retaking is prepared in faculties for the students with academic debts. The student wishing to retake the debt must register in IS “Studijos“. The students who did not registered can not take the debt.” (Amendment of Paragraph 23, resolution No. 1SN-22 of 19-02-2014 of the Senate).

The Ombudsman, by the letter No. S-294 of 09-08-2016, requested Mykolas Romeris University to indicate the set term and conditions for retaking the academic debts of the spring session of the mentioned studies, in case of failure to pass the examinations, to submit the documents supporting the requested term. *The terms for retaking the academic debts are not set in the provided schedule of classroom courses and examinations of the autumn and spring semesters of academic year of 2013/2014 of the Bachelor's and Master's continual studies and in the timetable of the examinations of the spring semester (6) of 2013-2014. Mykolas Romeris University did not submit the schedule for retaking the debts for to the students, who have the academic debts, prepared by the faculty to the Ombudsman, and informed that the applicant did not registered for retaking the examinations and credits in IS “Studijos” in 2014-2015, therefore, neither the procedure of implementation of the right to repeat report once for free by the student who failed to pass the examination (did not receive the credit, non-certified), or the terms and conditions of the preparation of the schedule for the retaking the debt are clear.*

2. The data provided by Mykolas Romeris University show that the student had 2 debts in the 1<sup>st</sup> semester, 1 debt in the 2<sup>nd</sup> semester, 2 debts in the 6<sup>th</sup> semester.

In that case, if the student at the end of a semester has no more than 3 debts, Paragraph 103 of the Order is applied, which sets that “the student <...>, at the end of the semester has no more than three academic debts, he has to settle them within the semester. The student who did not settle the debts within the semester <...> has to repeat the subject studies <...>.”

It should be noted that in the present case, the student had 3 debts at the end of the 2<sup>nd</sup> semester, i.e. in June 2013, but there is no reason to state that Paragraph 103 of the Order was implemented.

3. The student had a total of 5 debts at the end of the 6<sup>th</sup> semester, i.e. in June 2014, therefore, there can be applied the version of Paragraph 104 of the Order, modified by the Resolution No. 1SN-63 of 29 June 2012 of the Senate: “If at the end of the semester, the student <...> has more than three academic debts, he is expelled from the University for academic failure“, or the version of Paragraph 105 of the Order, modified by the Resolution No. 1SN-26 of 24 February 2014 of the Senate: “The student or the complementary studies listener who did not settle the academic debts on time or who has more than three debts, on his own request, can be transferred to the University’s listeners. After liquidation of all academic debts as a listener, such person can be returned to the list of students under the conditions set by the University.”

The e-mail of 03-07-2014 of the Student Department of the Faculty of Law of Mykolas Romeris University provides the following information to the applicant: “<...> is prepared the order for the removal of students from the University for academic failure, because you have more than three academic debts. Now you have two options: 1. To enter to the 1<sup>st</sup> course by the general admission, after entering to write an application for the inclusion of subjects, transferring to a higher course and to continue the studies. 2. To write a request to be removed <...> and to admit to the University’s listeners. Listeners are accepted for one academic year, within a year you have to liquidate all existing debts and only then the studies may be resumed and you can continue the studies.<...>“. The applicant’s request of 04-07-2014 for admission to the listeners was submitted to the Student Department of the Faculty of Law of Mykolas Romeris University.

*After evaluation of the legal regulation and the options to continue studies for the student, who has more than three academic debts, indicated in the provided e-mail, there is no reason to state that the applicant was misled.*

Paragraph 132 of the Order states that “the students are removed from the list of students and expelled from the University by the Rector’s order. The reason of removal, expelling is indicated in the order”.

The legal basis for the student’s removal from the list of students and admission to the University’s listeners is indicated in the order No. 2IT-121 of 09-07-2014 of the Rector of Mykolas Romeris University “Regarding the removal from the list of students, admission to the listeners, expelling from the university, resumption of studies” - Paragraph 105 of Mykolas Romeris University Study Procedure, approved by the Resolution No. 1SN-17 of 27 January 2011 of the Senate, in which it is stated that “the student or the complementary studies listener who did not settle the academic debts on time or who has more than three debts, on his own request, can be transferred to the University’s listeners. <...>.”

*Taking into account that Paragraph 105 of the Procedure regulates the transfer to the University’s listeners, but not the removal from the list of students, it can be concluded that Paragraph 105 of the Order indicated in the Order of 2014 is not the appropriate legal basis in the case of removal from the list of students.*

*Taking into account Paragraph 130 of the Order, in which the bases of termination of studies and students' removal from the list of students are established, and in accordance with Paragraph 132 of the Order, it can be stated that the Rector of Mykolas Romeris University violated Paragraph 132 because he did not clarify the reason of the removal from the list of students.*

4. The Order No.21T-8 of 17-09-2015 of the Rector of Mykolas Romeris University "Regarding the removal from the list of students, listeners, return of the part of the tuition fee, expelling from the university, resumption of studies, tuition fee reduction, admission of the listeners, transfer" (hereinafter - the order of 2015) shows that the indicated legal basis for the student's removal from the list of students, when the time of validity of the study agreements ends, - is Paragraph 130.5 of the Order modified by the Resolution No. 1SN-50 of 30 June 2014 of the Senate, in which it is stated that "The studies are terminated and the student, listener is removed from the lists of students, listeners: <...> when the time of validity of the listener agreement ends" (underlined by us).

The part "The Subject of the Agreement" of the agreement concluded between Mykolas Romeris University and the listener [applicant] on 15-09-2014 determines *inter alia* "period of studies" - 30-06-2015. Mykolas Romeris University treats this date as the term of validity of the mentioned agreement (the letter No. 24T(11.21-20401)-4 of 14-09-2016 of Mykolas Romeris University), although in the Agreement of 2014, in the part "The Entry onto Force and the End of the Agreement" it is stated that "<...> the agreement ends:

14.1. after the successful completion of the requirements of the selected studies and after the service of the certificate with assessments to the listener;

14.2. at its termination on the bases provided in Paragraphs 15, 16 of this agreement.

15. The listener has the right to terminate this agreement by leaving the University.

16. The agreement can also be terminated after removal of the listener for serious violations of the laws of the Republic of Lithuania, the act governing the University Statute and internal procedures, for failure to fulfil the requirements set in the study program."

Also in the agreement concluded between Mykolas Romeris University and the applicant - the agreement between Mykolas Romeris University and the student who studies at the position that is not financed by the state (hereinafter - the Study agreement) determined that the Study agreement ends:

"27.1. after the successful completion of the degree-awarding study program requirements and the issue of supporting higher education diploma and diploma supplement;

27.2. if the study program, study form, nature of study funding changes;

27.3. at its termination on the bases provided in Paragraphs 28 and 29 of this agreement.

28. The student has the right to terminate this agreement by leaving the University.

29. The agreement can also be terminated after removal of the student for serious violations of the laws of the Republic of Lithuania, the act governing the University Statute and internal procedures, for failure to fulfil the requirements set in the study program."

*Given the fact that Mykolas Romeris University did not provide any documents confirming the end of the Listener agreement and the Study agreement on the bases indicated in them, it can be concluded that the Listener and Study agreements are in force, and that the incorrect legal basis is indicated in the Order of 2015.*

It should be noted that the Ombudsman makes the decisions in accordance with Part 12 of Article 18 of the Law on Higher Education and Research of the Republic of Lithuania, therefore, the obligations for the university requested by the applicant to return “illegally deprived student status”, “to create conditions to repeat the last 2 examinations of the examination session once without paying for it and without the condition to repeat the course of subjects”, “to return the payment of <...> EUR” are not the part of the Ombudsman’s competence.

After the evaluation of the information submitted by the applicant, Mykolas Romeris University and the supporting documentation 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 of the Republic of Lithuania, the Ombudsman:

**decided:**

To inform Mykolas Romeris University and the Ministry of Education and Science about the violations of the procedures 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.

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