



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

DECISION REGARDING THE COMPLAINT OF P.Ū. OF 6 OCTOBER 2016

10 January 2017 No SP-1
Vilnius

The Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter – Ombudsman), in accordance with Paragraph 1 of Article 18 of the Law on Higher Education and Research of the Republic of Lithuania and with 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 13.1, and after examination of the complaint of P.Ū. (hereinafter - the applicant¹) received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 6 October 2016 regarding the admission to postgraduate studies at Vytautas Magnus University together with Aleksandras Stulginskis University and the Lithuanian Centre for Agrarian and Forest Sciences (hereinafter - VMU with ASU and LAFSC) and regarding possible violations of procedures during the examination of the applicant’s appeal at Vytautas Magnus University (hereinafter referred to as VMU) as well as the material submitted,

determined:

In his complaint, the applicant stated that on 6 September 2016, he participated in the competition for doctoral studies in the field of ecology and environmental science. During the competition, “some of the members of the jury were prejudiced in against [the applicant], treated him with disrespect, passed remarks, commented, <...> attempted to compromise [the applicant] <...>”². The applicant stated that “[when participating in] a doctoral competition, [he received] disrespect, unethical and incorrect behaviour from the prof. [R. J.]”, and prof. A.A., when evaluating the applicant during the motivational interview, “did not take into account the quality of the [applicant’s] work, the amount of work, particularity, and the knowledge important for the theory and practice”.

Indicating that “the competition jury grossly violated the rules of admission in respect of the [applicant] and the regulations as well as the rights”, the applicant submitted complaints to the rector of the VMU and the rector of the Aleksandras Stulginskis University (hereinafter - ASU) on 14 September 2016 and 15 September 2016.

¹ Applicant in the text of the Ombudsmen’s decision is given as a noun of masculine gender without linking it to the sex of the student, applicant.

² The language of the applicant here and further in the text is unedited.

On 16 September 2016, considering the complaint of the applicant of 14 September 2016, the rector of the VMU adopted an order No 344 “Concerning the Appointment of the Commission of Appeal”.

In his complaint, the applicant states that he met with the rector of the VMU on 19 September 2016 and informed “about the violations committed in respect of [the applicant]”. On the same day, “the complaint was evaluated formally, without participation of [the applicant]”.

On 20 September 2016, the response No 1-386a of the rector was prepared for the applicant, but the applicant noted that the rector’s “response to the complaint was prepared in breach of provisions set forth in the laws”.

The applicant indicated that he repeatedly addressed the Rector of the VMU, but “the complaint was not examined at all”. The applicant noted that a meeting with VMU vice-rector for research J. Kiršienė and the director of the research office D. Sabonienė was held relating to the consideration of the complaint, but “on demand, the specialists could not, did not want to and avoided explaining the reasons for the violations”.

In his complaint, the applicant asks the Rector of the VMU prof. J. Augutis, vice-rector for research J. Kiršienė, the rector of the ASU prof. A. Maziliauskas and vice-rector V. Butkus “to re-assess the violations made in respect of [the applicant] during the entry to the doctoral studies, to re-evaluate repeatedly the results of the [applicant] during the entry to the doctoral studies, as well as, possibly, the results of the admission of other participants after the clarification of violations”. Also, he sought “the vice-rector for research Julija Kiršienė responsible for the Commission of Appeal to prepare a response corresponding to the legislation” and the members of the VMU and the ASU “Rectors, other responsible persons related to doctoral studies, in the presence of the chair and members of the Commission for evaluation of admission to Environment and Ecology Doctoral Studies, to accept [the applicant] for a preliminary interview on the admission results of the [applicant] and the consequences for further studies of [the applicant]”.

The Ombudsman is sought to “examine all documents relating to the complaint attached to the document as well as the documents available in the said universities relating to the [applicant’s] candidacy for doctoral studies”.

On 11 October 2016 (letter No S-347), the Ombudsman addresses to VDU requesting to submit the following: “1) the legal act regulating the procedure for admission to doctoral studies in the field of Environment and Ecology; 2) the minutes of the motivation interview with [the applicant] held on 6 September 2016; 3) specify and substantiate the structure of the score of the motivation interview with [the applicant]; 4) legislation regulating the activities of the Committee of Postgraduate studies; 5) audio record made during the meeting with [the applicant], [M. A. Ū.], VDU vice-rector for research J. Kiršienė and the director of VDU research office D. Sabonienė”.

On 17 October 2016 (letter No 1-445), VMU submitted the requested documents and response, where indicated that “motivation interview with the candidates to postgraduate studies took place at Vytautas Magnus University on 6 September 2016. The member of the Committee evaluates the motivation interview confidentially; must not coordinate his/her opinion with other members of the Committee and provide explanations relating this such opinion to the candidates. The final score of motivation interview is the mean value of the evaluation scores in the 10-point evaluation system given by the members of the Committee.. <...> The members of the Committee evaluated the preparation and motivation of each candidate to do postgraduate studies in the field of Ecology and Environment, the compliance with the scientific publications, scientific activity and scientific

experience with the topic chosen, references of scientists, knowledge of foreign languages, etc. The final evaluation score for motivation interview of the candidate [the applicant] is 8.33". In addition, the VMU informed that "audio record of the meeting with [the applicant], [M. A. Ū.], VDU vice-rector for research J. Kiršienė and the director of VDU research office D. Sabonienė was made by <...> [the applicant] by his mobile phone".

On 18 October 2016 (letter No S-358), the Ombudsman, considering the information provided by VMU on 17 October 2016 (letter No 1-445) relating to the audio records, addressed to the applicant requesting "to submit the audio record, which was made during the meeting of [the applicant] with the vice-rector for research J. Kiršienė and director of research office D. Sabonienė". In addition, "to indicate an exact date of the meeting and list the persons who participated at the meeting" is sought.

On 2 November 2016, the ombudsman received the letter of the applicant indicating that the applicant has sent to the Office "the available video and audio records of the discussion held on 22 September 2016 at 3.05 pm and discussion held on 3 October 2016 at 1.00 pm".

The said letter provides the persons who participated at the meetings with the applicant on 22 September 2016 and 3 October 2016 and possible violations: "at the discussion held on 22 September 2016 at 3.05 pm during the official³ audio record, in the presence of [the applicant], <...> the vice-rector for research Julija Kiršienė and director of research office Daiva Sabonienė, [M. A. Ū.] the violations made in respect of [the applicant] were discussed; on demand, the responsible specialist could not, did not want to and avoided explaining the reasons for the violations". The Applicant stated that "the audio and video records are being made on purpose to have evidence in case of any disputes, where such necessity is regulated by legal acts".

Moreover, by the said letter the Office is requested "to sue out the audio and video records from Vytautas Magnus University and Aleksandras Stulginskis University if such have been made during the processes related to the complaint under consideration". The Ombudsman is requested "to examine the whole material related to the complaint, the documents attached and available in the said universities related to the candidacy of [the applicant] to postgraduate studies".

On 29 November 2016, the Ombudsman addressed to the VMU relating the provision of additional information and requested to submit: "1) the documents submitted by [the applicant] to the Committee of the postgraduate studies in the field of Ecology and Environment for admission to the postgraduate studies in the field of Ecology and Environment in 2016; 2) the minutes of the meeting of the Commission of Appeal (hereinafter – the Commission) regarding the complaint of [the applicant] of 14 September 2016; 3) the copy of official decision of the Commission".

On 1 December 2016 (letter No S-435), the Ombudsman applied to the chair R. J. of the Committee of postgraduate studies in the field of Ecology and Environment (hereinafter – the Committee) inviting him to arrive at the office and "present the explanations regarding the admission of [the applicant] to postgraduate studies".

On 1 December 2016 (letter No S-436), the Ombudsman addressed to the lecturer of ASU A. A. inviting him to arrive at the Office and "present the explanations regarding the admission of [the applicant] to postgraduate studies".

The VMU provided the following documents on 6 December 2016 (letter No 4-549): "1) the documents submitted by [the candidate] for competition <...> for postgraduate studies in the field of Ecology and Environment at Vytautas Magnus University together with Aleksandras Stulginskis

³ The Ombudsman did not assess the official audio recordings of the applicant.

University and the Lithuanian Centre for Agrarian and Forest Sciences; 2) the minutes of the meeting of the Commission of Appeal constituted based on the Order No 344 of the rector of Vytautas Magnus University of 16 September 2016; 3) the response of the rector of Vytautas Magnus University to the complaint of 14 September 2016”.

The Ombudsman addressed to the director of the Library and Information Centre of Lithuanian University of Health Sciences (hereinafter – LHSU) requesting “to submit a list of scientific publications of [former] [the student] [the applicant] of Lithuanian University of Health Sciences (he graduated from medical study program in 2010)”.

The official description of scientific activities in 2010-2016 of the applicant was received from the Library and Information Centre of LHSU on 13 December 2016.

The Ombudsman applied to VMU on 13 December 2016 (letter No S-453) relating to submission of additional information, requesting: “1) to indicate how many state funded and non-funded positions were allocated to postgraduate studies in the field of Ecology and Environment at VMU with ASU and LAFSC in 2015 and 2016, and how many candidates were admitted to the postgraduate studies; 2) to provide the legal acts regulating the submission of appeal and formation of the Commission of Appeal as well as the activities thereof”.

The meeting with chair of the Committee R. J. and lecturer of ASU A. A. was held at the Office on 14 December 2016. During the conversation, it was stated that the main reason having determined the failure for the applicant to pursue the competition to postgraduate studies in 2015 and 2016 was low score of certificate and lack of publications. It was also stated that audio records were not made during the motivation interview in 2015 and 2016, such practice was not applicable. During the meeting, the attention was drawn to the fact that those who have not passed to the state funded positions were offered to study at paid position; however, the applicant lost such an opportunity.

VMU presented the response on 20 December 2016 (letter No 1-578), where indicated that “one state funded position was allocated to Ecology and Environment studies at Aleksandras Stulginskis University (one person was admitted to studies), <...> two state funded positions were allocated to Vytautas Magnus University (two persons were admitted to studies) in 2015. <...> one state funded position was allocated to Ecology and Environment studies at Aleksandras Stulginskis University (one person was admitted to studies), <...> two state funded positions were allocated to Vytautas Magnus University (two persons were admitted to studies) in 2016. The letter states that the applicant “<...> was offered to study in a non-state funded position for postgraduate studies of Ecology and Environment at Vytautas Magnus University since he did not succeed to get to state funded positions for postgraduate studies”. [The applicant] failed to arrive to sign the contract in did not inform about his decision before the stated date. VMU has also attached the following documents: “1. Orders of the Minister of Education of the Republic of Lithuania of 2015 and 2016 on the state funded positions for postgraduate studies. 2. Orders of 2015 and 2016 on admission to postgraduate studies in the field of Ecology and Environment at Aleksandras Stulginskis University, Lithuanian Centre for Agrarian and Forest Sciences and Vytautas Magnus University. 3. [The candidate] <...> was sent a letter.

After the analysis of the information provided by the applicant, Chair of Committee R. J., the lecturer of ASU A. A. and the administration of VMU as well as the legal acts, it was determined as follows:

1. In 2015, the applicant participated in an open competition to postgraduate studies in the field of ecology and Environment at VMU with ASU and LAFSC and pretended to two (VMU and ASU) topics. The applicant pretended to the topic offered by ASU “Consistent patterns of adaptation of main species of trees to new environmental conditions through the clarification of instantaneous and long-term physiological reactions of separate individuals to the change of environmental factors”.

It should be noted that the applicant indicated in his complaints of 15 September 2016 and 27 September 2016 that he pretended to the topic of VMU “Impact of meteorological and heliophysical factors on the environment and health of a human”, and the topic “Impact of transient variation of meteorological and heliophysical factors as well as air pollution on the health of a human” is indicated in Annex to the minutes of the Committee of 10 September 2015.

Four selection criteria are specified in the terms and procedures for postgraduate studies in the field of Ecology and Environment at Vytautas Magnus University, Aleksandras Stulginskis University and Lithuanian Centre for Agrarian and Forest Sciences (hereinafter – Procedure for 2015) for the year 2015 by open competition: „4.1. Scientific publications (SP). The publications of the candidate shall be evaluated by scores based on applicable methodology for evaluation of scientific production approved by the order of the Minister of Education of the Republic of Lithuania. The scores for scientific publications are allocated based on the table attached and recalculated to a ten-point system <...>. 4.2. Project of scientific research (SR). <...> 4.3. Mean value of diploma grades (MD). <...> 4.4. Motivation interview (MI). During the interview, the readiness and motivation of the applicants to study in the postgraduate program of the corresponding field of science, the conformity of scientific publications, scientific activities and scientific experience with the chosen topic, recommendations of scientists, foreign language skills, etc. are assessed. The final score for the motivation interview is the mean value of the evaluation scores in the 10-point evaluation system given by the members of the Committee. Only the entrants whose final score for motivation interview is not lower than 7 scores can pretend to postgraduate studies” (underlined by us).

The order of 2015 and Annex No 1 to the procedure for admission to postgraduate studies in the field of Ecology and Environmental science by means of Open competition in 2016 at Vytautas Magnus University, Aleksandras Stulginskis University, Lithuanian Centre for Agrarian and Forest Sciences (hereinafter referred to as the Order of 2016) sets out the evaluation of scientific publications. The total amount of score in a ten-point system is converted as follows:

“•The sum of scores (Tmax) of the candidate who got the maximum amount of scores is equated to 10 scores.

- Tmax divided by 10 gives the constant -k ($k = T_{max}/10$).
- The sum of the score collected by other contestants divided by the constant k gives the number of scores of the candidate for scientific publications (scoring is rounded up to the nearest one hundredth part)” (underlined by us). Sub-clause 2 of paragraph 5 of the Order for 2016 provides: “Having an equal number of scores, the higher place in the competition is taken by the applicant whose the evaluation for scientific publications is rated higher”.

Attention should be drawn to the fact that the Ombudsman, considering small number of scores collected by the applicant for scientific publications and in order to verify the correctness of the calculation of scores, applied to 2016, applied to the LHSU Library and Information Centre on 13 December 2016 (letter No S-451) requesting to submit a list of scientific publications of the applicant. Official description of scientific activities of the applicant received on 13 December 2016 confirms that the scores for the scientific publications for the applicant have been calculated correctly.

It should be noted that the evaluation of scientific publications during the competition to postgraduate studies in the field of Ecology and Environmental science forms one fourth of the final competition score, and the scores of the candidate for scientific publications are calculated taking into account the scores possessed by other applicants.

On 10 September 2015, the Committee, having evaluated the candidates and computed the competition scores, formed the ranking by priority. The applicant has remained the third among the three contenders on both topics to the VMU and ASU in the priority ranking:

VMU						
Candidates:	Scores for scientific publications	Scores in ten-point system for scientific publications (SP)	Scores for the project of scientific research (RP)	Overall average of a supplement to Master's Diploma (DA)	Score for motivational interview (MI)	Competition score (CS)
X	x	x	x	x	x	9,52
X	x	x	x	x	x	6,75
Applicant	0,83	1,38	6,5	7,98	7,2	5,77

ASU						
Candidates:	Scores for scientific publications	Scores in ten-point system for scientific publications (SP)	Scores for the project of scientific research (RP)	Overall average of a supplement to Master's Diploma (DA)	Score for motivational interview (MI)	Competition score (CS)
X	x	x	x	x	x	9,32
X	x	x	x	x	x	9,27
Applicant	0,83	8,3	6,3	7,98	7	7,40

In the complaint of 14 September 2016, the applicant stated that in 2015 during the competition for doctoral studies in the field of Ecology and Environmental Science at ASU “he was [the only] [candidate] in the topic” and [was] positively [evaluated]”.

The data of the priority lists of applicants in the minutes No 7 of the meeting of the Committee on 10 September 2015 7 show that the applicant participated in the ASU topic with two more candidates.

In the complaint of 14 September 2016, the applicant stated that during the competition for doctoral studies in 2015, “[the applicant] was not accepted to doctoral studies, the then topic of prof. [A. A.], was made alternate, reserve, non-funded by state; This was a major violation of the law of studies, [the applicant] was not informed of which at that time”.

It should be noted that VMU stated on 20 December 2016 (letter No 1-578) that the applicant “the applicant was offered to study in the place of doctoral studies in the field of Ecology and Environmental Science at Vytautas Magnus University that is not funded by the state, since he was not qualified for the state-funded doctoral study place in accordance with Article 37 of the Regulation”. In addition, sub-clause 5 of paragraph 6 of the Order for 2015 states: “Upon publication of the list of invited candidates, the candidates who were not qualified for state-funded places but, by

the decision of the Committee, meet the requirements for doctoral studies, can choose paid doctoral studies by paying a fee for doctoral studies set by the doctoral institution”.

In the light of the above stated, there is no basis to state that the violation during the procedure for conducting a competition in 2015 for doctoral studies in Ecology and Environmental Science in respect of the applicant.

The applicant participated in an open competition to doctoral studies in Ecology and Environmental Science at VMU with ASU and LAFSC on 6 September 2016 and applied to two (VMU and ASU) topics. The applicant applied for the topic “Consistent patterns of adaptation of main species of trees to new environmental conditions through the clarification of instantaneous and long-term physiological reactions of separate individuals to the change of environmental factors” proposed by the ASU, and to the VMU – “Impact of strong sun wind on the environment and human health”.

On 6 September 2016, the Committee, having evaluated the candidates and computed the competition scores, formed the ranking by priority. The applicant has remained the fourth among the four contenders on topic to the VMU and the second of the two on ASU topic in the priority ranking:

VDU						
Candidates:	Scores for scientific publications	Scores in ten-point system for scientific publications (SP)	Scores for the project of scientific research (RP)	Overall average of a supplement to Master's Diploma (DA)	Score for motivational interview (MI)	Competition score (CS)
X	x	x	x	x	x	9,59
X	x	x	x	x	x	9,43
X	x	x	x	x	x	9,33
Applicant	0,83	2,17	7,83	7,98	8,33	6,58

ASU						
Candidates:	scores for scientific publications	Scores in ten-point system for scientific publications (SP)	Scores for the project of scientific research (RP)	Overall average of a supplement to Master's Diploma (DA)	Score for motivational interview (MI)	Competition score (CS)
X	x	x	x	x	x	9,78
Applicant	0,83	8,3	7,17	7,98	8,33	7,95

The complaint of 14 September 2016 states that, during the competition for doctoral studies, the applicant “was predisposed to adverse evaluation and prevent his admission to doctoral studies”. The applicant states that during the motivational interview on 6 September 2016, “some of the members of the jury were predisposed negatively against [the applicant], behaved disrespectfully, replied, commented, including completely unrelated to entering doctoral studies, attempted to compromise [the applicant], to create a negative image to [the applicant]”. The applicant also points out that “[participating] in a doctoral competition, [he has] received disrespect, unethical and unfair conduct from the prof. [R. J.]”. The applicant states that “the malice in respect of [the applicant] is associated

with misunderstandings between [the applicant] prof. [R. J.], which happened many years ago”. According to the applicant, the chair of the Committee R.J., when introducing the applicant during the motivational interview, stated that the applicant’s “achievements were worse than of some other candidates, while he should have followed the confidentiality, he was not able to provide unspoken data”. The applicant states that R.J. during the sitting stated that “[the applicant] poorly familiarized himself with the topic of prof. [A. A.], and [did not reveal] the topic in his project”. The applicant stated that the prof. [A. A.], when evaluating the applicant during the competition, “noted that the other candidate was more significant [to him] only because he was doing a related work”. The complaint also states that “by showing disrespect to [the applicant] by incorrect and unfair, an entrant candidate, by failing to respect the principles of parity, equal rights and opportunities in respect of [the applicant], without assessing the achievements of [the applicant] in studies, serious and hard work of [the applicant], not lacking and giving quite a lot of valuable time to prepare high-quality comprehensive and noteworthy doctoral project works”.

It should be noted that audio recordings of the motivation interview in the competition for Ecology and Environmental Science in 2016 were not presented; therefore, the Ombudsman did not have the opportunity to assess whether the academic ethics was violated in relation to the applicant during the motivation interview in 2016. In the light of the foregoing, there are no grounds to state that the members of the Committee sought to assess the applicant unfairly.

2. The applicant, disagreeing with the priority of ranking for the candidates for the doctoral program in the field of Ecology and Environmental science formed by the Committee’s decision of 6 September 2016, submitted a complaint to the rector of the Vytautas Magnus University and the rector of the ASU on 14 September 2016 “Relating to the evaluation of the topics provided by the [applicant] for the doctoral studies in the field of biology sciences at Vytautas Magnus University and Aleksandras Stulginskis University”. The complaint sought the Commission of Appeal to be composed of uninterested specialists” and “that the persons having potentially negative interest in respect of [the applicant] and involved in the previous admission to doctoral studies would not participate in the Commission of Appeal”.

Considering the fact that the Ombudsman has no data on the negative interests of the Commission of Appeal against the applicant, there are no grounds for stating the interest of the Commission.

In the complaint of 27 September 2016, the applicant states that an incorrect decision of the Commission of Appeal has been prepared for him, and asks the rector of the VMU prof. J. Augutis, vice-rector of research J. Kiršienė, the rector of the ASU prof. A. Maziliauskas and the vice-rector V. Butkus “to re-evaluate the violations made in respect of the [applicant] during the admission to doctoral studies, to evaluate the violations repeatedly as well as the possible results of the admission to the doctoral program of [applicant] and other participants”, as well as “vice-rector of research Julija Kiršienė responsible for the Commission of Appeal to prepare a response that complies with the legislation”.

The Rector of the VMU, “taking into account the complaint of 14 September 2016 regarding the admission to doctoral studies in the field of Ecology and Environmental sciences”, adopted Order No 344 “On the appointment of the Commission of Appeal” on 16 September 2016.

The minutes No 1 of the meeting of the Commission of Appeal of 19 September 2016, the following decision is indicated: “1.1. To state that no procedural violations were determined in the work of the Committee for doctoral studies in the field of Ecology and Environmental science, in

2016, the admission to the doctoral studies in Ecology and Environmental science was carried out in accordance with the established conditions and procedures. 1.2. The statements made in the complaint are not substantiated; therefore, there is no reason to invalidate the results of the competition to doctoral studies. 1.3. To suggest the Rector to submit the reply to [the applicant] (attached) to the complaint of 14 September 2016 regarding the possible violation of the organization of the competition for the admission to the doctoral studies in the field of Ecology and Environmental science”.

The Rector’s response No 1-386a to the complaint of the applicant of 14 September 2016 was submitted on 20 September 2016, stating: “The Commission found that there were no grounds for the invalidation of the decision of the Committee of 6 September 2016 relating to the results of the competition”.

Clause 43 of the Regulations of Doctoral studies in Ecology and Environmental science field at Vytautas Magnus University together with Lithuanian Research Centre for Agriculture and Forestry, Lithuanian University of Agriculture (hereinafter referred to as the Regulations) stipulates: “A person, who has applied for participation in the admission process of doctoral studies and has not been accepted or does not agree with a given dissertation topic, in three days after the announcement of the minutes of the Committee may: 43.1. submit a motivated application or appeal to the Committee; 43.2. after receiving a negative response from the Committee, in three days s/he may appeal to the head of the Doctoral Institution, the candidate was assigned to or applied for”. (underlined by us).

Considering the fact that the applicant filed a complaint (appeal) not to the Committee, as provided for in clause 43 of the Regulations, but to the head of the institution, it should be concluded that the applicant has submitted the complaint without following the procedure for submission of the appeal provided for in legal acts.

The sub-clause 17 of clause 44 of the VMU Statutes establishes that the Rector, “having received student requests, complaints or notifications in written form about the infringement of their rights stipulated in legal acts and their legally protected interests, assume an obligation to analyse them and respond in writing or delegate this obligation to another person within 15 calendar days” (underlined by us);

Clause 150 of Study regulations of VMU establishes that “Being unsatisfied with the teacher’s assessment, a student shall have a right to appeal to the Dean of the Faculty he/she studies in, in compliance with the Description of procedure for appeal investigation, approved by the Rector” (underlined by us).

Paragraph 1 of the VMU Regulations of Appeals stipulates that “the regulations of appeals <...> establish the procedure for the submission and examination of appeals for University students and free audiences <...>”; Paragraph 2 states that “the appeal is a written, reasoned request from the student to provide an opportunity to re-assess the evaluation of study results and/or reporting procedures” (underlined by us).

Clause 83 of the Regulations establishes that “A motivated appeal or a complaint related to the science degree that has not been awarded, a non compliance of a non-resident candidate’s or a doctoral student’s request to defend a dissertation and other issues related to the organization and pursuance of the doctoral studies shall be delivered in 14 working days to the office of the Doctoral Student Institution addressed to the head of the institution” (underlined by us).

Considering the above-mentioned legal regulation, the conclusion that the appeal procedure provided for in the VMU internal legislation applies to students and free audiences relating to the results of studies, execution of reporting procedures and doctoral studies, and an the Commission of Appeal may be set up to deal with such cases only.

In the present case under consideration, the applicant applied to the Rector by submitting a complaint that, according to the nature and the requests made in the complaint, could be attributed to the appeal. The Rector, without indicating a legal basis, appointed the Commission of Appeal to examine the complaint of the applicant by the Order No 344 “On the Appointment of the Commission of the Appeal” of 16 September 2016. In addition, following the examination of the appeal by the Commission of Appeal, the Rector informed the applicant of the decision taken by the Commission of the Appeal in writing by the letter No 1-386a of 20 September 2016, which was not submitted to the applicant.

It should be noted that, in accordance with clause 43 of the Regulations, which establishes the procedure for non-acceptance of the appeal or a request of a candidate or submission of dissertation on prescribed topic, the Rector shall have the right to examine the applicant’s complaint (appeal) only after examination and submission of a negative response to the person who submitted the request or appeal by the Committee.

In view of the foregoing, it can be concluded that:

- 1) Rector’s Order No 344 is unfounded;
- 2) Letter No 1-386a prepared by the Rector, in which the applicant was informed of the decision of the Commission of Appeal, is unfounded;
- 3) The authority of the Rector to appoint the Commission of Appeal to investigate a complaint (appeal) of a candidate for doctoral studies is not specified in the legal acts of the VMU.

In view of the above stated, it should be stated that the rector, appointing the Commission of Appeal to examine the complaint of the applicant to the doctoral studies by the order, exceeded the powers established in the VMU legal acts.

After the evaluation of the information and documents substantiating it as well as legal regulation provided by the applicant, the Chair of the Committee R.J., ASU lecturer A.A. and the VMU, as well as the documents confirming it and legal regulation, in accordance with sub-clause 1, Paragraph 11 of Article 17 of the Law on Higher Education and Research of the republic of Lithuania, the Ombudsman:

decided:

To inform the applicant, VMU, ASU, LAFSC and the Ministry of Education and Science about the Ombudsman’s decision.

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