



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

DECISION REGARDING COMPLAINT OF E. Ž. OF 11 JANUARY 2016

5 February 2016 No SP-4
Vilnius

The Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter – Ombudsman), <...> examined the complaint of E.Ž. (we have impersonalized the data) (hereinafter – applicant¹) received in the Office of Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania on 11 January 2016, and submitted material, and **determined that:**

The applicant in his complaint states that Academic Council of Panevėžys College (hereinafter – Academic Council) in the meeting of Academic Council on 6 January 2016 (extract from the protocol No V4-2) decided as follows:

“To disapprove <...> suitability of the candidate to hold the office of the Director of the College (approved by 7 (seven) votes, disapproved by 8 (eight) votes)“.

The applicant requests the Ombudsman:

“1. To evaluate the compliance of such decisions of Academic Council of Panevėžys College with the Law on Higher Education and Science of the Republic of Lithuania as well as Statute of Panevėžys College and other legislative norms.

2. To evaluate whether the Academic Council violated the procedural requirements provided for in the legislation, and (if yes) whether the following procedural violations can determine that the decisions accepted are essentially illegal.

3. To evaluate whether the Academic Council did not violate the values and principles of the code of academic ethics, including the principles of non-discrimination and equality.“

<...>

The applicant by his letter No V11-16 of 20 January 2016 “Regarding the clarification and submission of documents” stated them that: “members of Academic Council of Panevėžys College did not ask to provide additional documents supporting the compliance with the requirements set out in Section II of the Description of the procedures for the organization of public competition for the position of director of Panevėžys College approved by Decision No CT-4 of 11 November 2015 Panevėžys College Council <...>. No information what specific requirements I did not meet was given. I attended the Academic Council meeting on the 6 January 2016 and was not asked any additional questions.“

<...>

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

The Chairwoman of Panevėžys College Council presented the response in a written form to the Office of Ombudsman on 20 January 2016, explaining that:

“<...> there is no separate act, which sets out the criteria for assessing the candidate for the position of director of Panevėžys College. Members of the Academic Council were given curriculum vitae of the candidates <...> for the position of director and the list of Candidates, <...> members of Academic Council, after having familiarized themselves with the documents provided by the candidates for the position of director of Panevėžys College, i. e. the list of Candidates, Annex No 3 <...> and the copies of CVs <...>, had the opportunity to submit proposals to the College Council on the suitability (unsuitability) of the candidates to hold the office of the college director, considering the requirements for the candidate to the position of director of Panevėžys College set out in Section II of the Description of procedures for the organization of public competition for the position of the director of Panevėžys College approved by the Decision No KT-4 of 11 November 2015 of the Council of Panevėžys College.“ <...>

Explanations of seventeen members of the Academic Council of Panevėžys College regarding the situation were received from 15 January 2016 to 2 February 2016. Ten members in their responses explained that [the applicant] conformed to the requirements of Section II of the Description of procedures for the organization of public competition for the position of the director of Panevėžys College approved by Decision No CT-4 of the Council of Panevėžys College on 11 November 2015 (hereinafter – the Description) or that evaluation was carried out according to the following requirements. Two members informed that they were absent in the meeting and left their authorization to other members. Four members refused to comment on the assessment of the candidates because there was a secret ballot. One member did not submit the answer to the inquiry of the Ombudsman. One member said that “at that date, when the current director was being elected, I belonged neither to academic nor another council, because I was not a college student yet (the information in angle brackets is ours).

Controller repeatedly asked the Academic Council members, who refused to comment on the assessment of candidates due to a secret ballot, to indicate which candidate did not meet the requirements,<...> Almost identical responses of the Academic Council members (Stanislava Stanevičiūtė, Rima Adomaitienė, Birutė Ragailytė and Jurgita Lieponienė) were received on 2 February 2016, which stated that “the principle of a secret ballot ensures that no persons or even the authorities can prevent a person from free voting. A member of Academic Council can freely, not affected nor forced, make a decision and vote, and must not explain own choice and motives to anybody.”

<...>

It should be noted that Rima Adomaitienė is a member of the Ethics Commission of Panevėžys College. <...>

Evaluating the assessment of knowledge, skills and competence during the competition of the candidates for the position of the college director, it is important for the assessment to be objective, fair, honest and consistent with the objectives of assessment.

<...>

The Chairman of the Council of Panevėžys College stated by e-mail on 18 January 2016 as follows:

“1. I received the proposals of the College Academic Council on suitability (unsuitability) of the candidates to hold the office of college director on time; 2. College Council meeting is

scheduled on 27 January, meeting decision (a copy of the list of candidates) will be sent after the meeting <...>“.

The Chairman of the Council of Panevėžys College submitted the copy of Protocol No V4-2 of 6 January 2016 of Academic Council of Panevėžys College by e-mail on 25 January 2016. The agenda of the meeting provided for a single issue “1. Consideration regarding the submission of proposals on suitability (unsuitability) of the candidates to hold the office of college director to the College Council.” The copy of the protocol notes: “Voting for <...> suitability of the candidates to hold the office of the director of the College. Vote Counting Commission distributed 15 (fifteen) secret ballot bulletins, after voting 15 (fifteen) secret ballots were collected, 1 (one) secret ballot bulletins were spoiled, one opinion was expressed by mandate. The votes distributed as follows: approved by 7 (seven) votes, disapproved by 8 (eight) votes. Voting results were approved by consensus. RESOLUTION. <...> 4. To disapprove [candidate’s] <...> suitability to hold office of the director of the College (approved by 7 (seven) votes, disapproved by 8 (eight) votes.” (The information in angle brackets is ours).

The Chairman of the Council of Panevėžys College provided the information by e-mail on 28 January 2016 stating that: “1. College Council, after evaluating and discussing the proposals of Academic Council on suitability (unsuitability) of the candidates, decided to disregard them in this case; 2. The list (in alphabetical order) of the candidates that can participate in the public competition to hold the office of director of Panevėžys College approved by Decision No KT-1 of 27 January 2016 of the meeting of Panevėžys College Council: <...>“.

Chapter 13 of Section II states that: “College Academic Council, having familiarized itself with the documents submitted, shall present proposals on the suitability (unsuitability) of the candidates to hold the office of college director, according to the requirements indicated in Section II of this Description.” (Underline is ours).

It should be noted that in accordance with the provisions of Section III of the Description, the compliance of the candidates with the requirements set out in Section II of the Description shall be evaluated by the College Council: “4. The competition to hold the office of the director shall be published by the College Council <...>: <...> 5. The organization of the competition involves “<...> 5.2. The assessment of compliance of the candidates with the requirements set out in Section II the Description; 5.3. Elections and publication of results.“ Also, paragraph 16 of Section III of the Description states that: “If the candidate fails to comply with the requirements stated in Section II of this Description, a reasoned notification that he does not comply with the requirements shall be sent at least within 5 (five) working days prior to the election day, to the e-mail provided in the candidate’s application form. <...> “ (Underline is ours).

Based on the information provided, the legal framework and the abovementioned facts, it should be concluded that the Academic Council performed the functions set out in the paragraph 13 of Section III of the Description and paragraph 5.9 of the Rules of Procedure of the Academic Council approved by the Decision No V4-10 of 18 October 2012 of the Academic Council (“considers and submits proposals to the Council on the suitability of candidates to hold the office of the Director“) and submitted proposals on suitability (unsuitability) of candidates. The assessment of the conformity of the candidates to the requirements and the prerogative of the decision-making on the suitability of the candidates is given to the College Board (Paragraph 15 of Section III of the Description: “The College Council shall approve the list of candidates after the evaluation of the proposals of Academic Council on suitability of candidates <...>).

In the view of the foregoing, it should be stated that there no violations of academic ethics and / or procedures of Academic Council of Panevėžys College were determined.

However, it should be noted that the refusal of the members of the Academic Council (Stanislava Stanevičiūtė, Rima Adomaitienė, Birutė Ragailytė and Jurgita Lieponienė) to provide facts related to objective and fair assessment of the candidates set up to obstacles the Ombudsman to evaluate the proposals of above-mentioned members of Academic Council on suitability/unsuitability of the candidates to hold the office of college director in terms of objectivity and justice.

In addition, as already mentioned, it is very important to assess the college community objectively and fairly and to achieve an objective, just and fair evaluation of knowledge, skills and competence as well as the relationship of collegiality.

The Ombudsman <...> **decided:**

To recognize the complaint as unjustified.
