



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

## DECISION REGARDING THE VIOLATIONS OF THE ACADEMIC ETHICS BY THE DIRECTOR OF MARIJAMPOLĖ COLLEGE VAIDOTAS VILIŪNAS

21 February 2017 No SP-4  
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 G. Ž. (hereinafter - the applicant)<sup>11</sup> received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 7 November 2016 and the material submitted by the academic community of Marijampolė College (hereinafter – the College);

### **determined:**

The applicant applied to the Ombudsman requesting<sup>2</sup> “to investigate the behaviour of the director of Marijampolė College Vaidotas Viliūnas and determine whether the director has not violated the academic ethics”. In the notification, the applicant stated that “on the website of Marijampolė College, a competition to hold office of Director of Marijampolė College was launched on 20 January 2016. On 23 March 2016, the Board of Marijampolė College announced Vaidotas Viliūnas as the winner of the competition <...>. Director Vaidotas Viliūnas organized a trip to his home at <...>, Kaunas, for members of Student’s Union of Marijampolė College on 19 February 2016, i.e. after commencing the competition procedure, among whom was the [student U.C.] belonging to

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<sup>1</sup> 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.

<sup>2</sup> The language of the applicant here and further in the text is unedited.

the Council of Marijampolė College. Students were driven by a 16-seat college bus Ford Transit (licence plate No <...>), which was driven by a college driver [A. T.].

According to the applicant, the director “took a few trays of sandwiches” from the College canteen.

The applicant reasons the trip to the Director of the College to Kaunas based on the entry in the social account of Facebook of 20 February 2016, in which, according to the applicant, “a joint photo of students and director Vaidotas Viliūnas made during the visit of the students at the director’s house was placed, with the gratitude “We would like to THANK the Director”.

Taking into account the circumstances specified in the notification, on 21 November 2016, the invitation letters were sent to the [head of] Economy Supervision Unit of the College G.C., to the [head of] the canteen of the Economy Supervision Unit L.M., to the [president] of Student’s Union of the College A.A. and to the former [president] of Student’s Union of the College U.C. requesting to arrive at the Office and submit explanations regarding the notification-related circumstances. Meetings with the abovementioned persons took place on 28 November 2016 and 5 December 2016. The former [president] of the Student’s Unit of the College U. C. did not reply to the invitation and did not arrive to the meeting.

On 28 November 2016, a meeting was held at the Office with the head of the canteen of Economy Supervision Unit of the College, who confirmed that catering could be ordered at the canteen. A request of fixed form is submitted, specifying the aim, list of the guests and their number. Taking into account the information provided during the meeting, a request to submit duly certified copies of representation expenses for February 2016 was sent to the head of the canteen of Economy Supervision Unit of the College on 1 December 2016. The following requested documents were received on 6 December 2016: the application of the College of 3 February 2016 for representation expenses and the act of write-off of representation expenses and the application of 29 February 2016 for representation expenses and the act of write-off of representation expenses. Considering the fact that none of these documents relates to the circumstances indicated in the notification, there will be no further analysis thereof.

A meeting was held at the Office with the head of Economy Supervision Unit of the College on 28 November 2016, who introduced the procedure for ordering transport services. The head of the Economy Supervision Unit confirmed that the College has a vehicle Ford Transit, licence plate No <...> driven only by the persons, who have corresponding category - the driver or the head of the Economy Supervision Unit. The vehicle can be used by all College staff at fixed rates.

Considering the explanations given during the meeting, the requests to the head of economy Supervision Unit of the College to were sent on 1 December 2016 and 6 December 2016 to submit

the following documents: the procedure for using the assets of the College; the document confirming all reservations of the vehicles of the College in February 2016; copies of requests for reservation of means of transport / use of transport services in February 2016, as well as detailed information on transport services provided from 15 February 2016 to 22 February 2016, indicating the name, surname, position of the recipient, purpose, route; copies of travel documents of February 2016.

The copy approved by Resolution No AT-12/13-4 of the Academic Council of the College of 25 October 2012 on the procedure for the management, use and disposal of the assets owned by the College of Marijampolė was received on 6 December 2016 (hereinafter - the Procedure for management, use and disposal of assets).

The letter No KS-425 on submission of the information of 7 December 2016 stated that “on 19 February 2016, the vehicle [Ford Transit, licence plate No <...>] was used at the request of the Public Communication and Marketing Department [the head M.J.] on the route Marijampolė - Kaunas – Marijampolė”, and submitted the following documents (underlined by us):

1) A copy of the log for reservation and use of vehicles in February 2016, according to which two vehicles were reserved on 19 February 2016. In respect that the use of one vehicle does not relate to the circumstances described in the notification, there will be no further analysis. Another vehicle - Ford Transit, which was reserved by the Head of the Public Communication and Marketing Department on 19 February 2016, the destination is not specified, the planned route - Kaunas, departure time - 4.00 pm, time of return - not specified, driver - A.T.;

2) the request of the Head of the Public Communication and Marketing Division of 18 February 2016, requesting “to allow the use of a Ford Transit owned by a College on the route Marijampolė - Kaunas – Marijampolė on 19 February 2016, stating in the request that fuel costs will be paid by Director Vaidotas Viliūnas” (underlined by us);

3) The request of the Public Communication and Marketing Division [specialist] L.P. of 18 February 2016 on going on business trip. The request includes the date of business trip – 19 February 2016; place - Kaunas, purpose – “Seminar on sharing good management experience” <...> “total number of goers (if the students are also going) – 17”; going by - Ford Transit, driver - A.T. (underlined by us);

4) The waybill for the bus of non-vehicle use No 0134698, completed on 19 February 2016. Waybill filled in for Ford Transit, licence plate No <...>, driver A.T., route – Kaunas; run - 134 km, number of passengers - not specified, departure and arrival columns - not filled.

During the meeting in the Office on 5 December 2016, the president of the Student’s Union of the College stated that the former president of the Student’s Union of the College had not arrived

because he was working and could not arrive. Asked about the trip of students, the purpose of the trip, the president of the Student's Union confirmed that the trip was, and indicated that the purpose of the trip/meeting to the Director of the College was "informal communication, just a friendly stay with the students, with the Student's Union representing all students, etc. That was the evening. A couple of hours and then we all left." Students went by "bus", the president of the Student's Union drove his own vehicle, got acquainted with the wife of the Director of the College. Asked if this kind of meetings are often organized, the president of the Student's Union confirmed that the Director of the College invites every year, the meetings are not organized at a particular time, but when "the new management body starts holding office, to get acquainted so that there would be no friction; it is just quite normal and we appreciate this; other unions also do this - go to the directors, and everywhere." The president of Student's Union pointed out that during such meetings, the discussions on science, about everyone's success in studies take place; everyone is able to ask questions. The table is set; the wife of the Director of the College cooks dinner; the people communicate and eat. After asking the president of the Student's Union about on whose initiative the meeting took place, he indicated that he did not know because at that time he did not hold office of the president of the Student's Union, but was temporary holding office of the president of the Student's Union. Asked if there was talk of the election of the Director of the College, the president of the Student's Union stated that - no, "the election topic was not even mentioned at all." We talked about studies, about the science of <...>, the topic about the election was not even touched. It was not even relevant to the Student's Union because we had one vote <...> and it seems to me that it was not even known that day who were the candidates, <...> thus about the elections - absolutely zero emotions." When asked about transport, the president of the Student's Union confirmed that it was a College bus. When asked if food was transported, the president of the Student's Union stated that he had only took a "small cake". Asked if there were sandwiches, the president of the Student's Union stated that "I do not know, maybe the wife did some, because there were some small roasts, something like that."

After the analysis of the collected material, additional requests for clarification of circumstances were sent.

The reply of the [head] of Public Communication and Marketing Department of the College P. Š. was received in 27 December 2016 saying that "I hold office of Head of Department from 19 September 2016; therefore, I do not know the circumstances of the facts you mention."

The copies of Order No IV-104 of 2 June 2015 "On the approval of the procedure for business trips of the Marijampolė College staff and payment of the business trip related expenses" and "Procedure for business trips of the Marijampolė College staff and payment for the business trip related expenses" (hereinafter referred to as the Procedure for business trips) and Order No 5K-31

“Regarding the business trip of [L. P.]” of 18 February 2016 were received on 9 January 2017. The said order states that “I am sending [L. P.] on business trip on 19 February 2016, <...> to Kaunas, to participate in a meeting and to share good management experience by going on business trip by the College vehicle Ford Transit (licence plate No <...>) driven by [A. T.]” (underlined by us).

A copy of the list of College students and staff who went to Kaunas on 19 February 2016 was received on 10 January 2017, where the persons mentioned in the complaint of the applicant are indicated with the fifth and sixth number - the former president of the Student’s Union U. C, and currently holding office of the president of the Student’s Union A. A., and the number of the specialist of Public Communication and Marketing Division of the College L. P. is seventeen on the list.

Explanations from the Director of the College Vaidotas Viliūnas were received on 11 January 2017. In response to a request from the Ombudsman to specify “The circumstances of the business trip of [specialist L.P.] of Public Communication and Marketing Division to Kaunas on 19 February 2016 (nature, place, purpose, etc.); the data of business trips of other Marijampolė College staff on 19 February 2016 and whether any other Marijampolė College staff went on business trip?”, the Director replied by submitting “a copy of the order on the L.P. business trip on 19 February 2016” and stated that “other Marijampolė College staff A.D., J.J. and M.J. went on a trip to March 11th lyceum in Punks to introduce college study programs.” No further explanations have been provided by the Director of the College on this issue.

The Director, in response to the Ombudsman’s request to indicate “the vehicle that was used to go to the event; owner of the vehicle; a source of funds to pay for transport costs accompanied by a copy of the documents confirming the payment for the services provided”, replied that “the vehicle Ford Transit (licence plate No <...>) of Marijampolė College was used to go to the event. I paid for transport services according to the submitted VAT invoice MK series No 0105970 of 23 February 2016” and attached a copy of the payment order to the College account.

At the request of the Ombudsman to indicate: “whether the meal was served during the event? If the meals were served, to indicate the catering supplier(s); the source of the funds paid for the meal accompanied by a copy of the documents confirming the payment for the services provided”, the Director replied that “during the event a meal was provided - my wife [A. V.] cooked a roast, I bought some snacks and condiments, cakes and fruit. We drank coffee and tea. I do not have a specific menu; I paid from my own funds. We do not collect checks for food, so I do not have them.”

The Ombudsman, taking into account the same surnames, asked the Director of the College to indicate “the relationship with the [member] of College Council G.V.” In response to the above question, the Director stated that “with the then [member] of Marijampolė College Council G.V. we

are related by the same surname, activities for the benefit of Marijampolė College and for similar values.”

Explanations of the [specialist] of Public Communication and Marketing Department L. P. to the request of the Ombudsman to indicate “a vehicle by which you went on business trip on the route Marijampolė - Kaunas - Marijampolė on 19 February 2016 and provide a copy of the list of persons, who went on a trip” were received on 31 January 2017. The [specialist] of Public Communication and Marketing Department L. P., in response to a request from the Ombudsman, stated that “on 19 February 2016, I went on a business trip route Marijampolė - Kaunas - Marijampolė by a vehicle of Marijampolė College” and attached a copy of the list of people, who went on a trip. The [specialist] of Public Communication and Marketing Department L. P., in response to a request from the Ombudsman to indicate “the circumstances of an organized event (location, nature, purpose, etc.)”, replied that the meeting took place in Kaunas, at the Director of Marijampolė College (I really do not know the exact address). It was an informal meeting, during which the students, the director and I talked about student life, education and learning, the director shared his experiences. The purpose of the meeting was to share good management experience and communicate in an informal environment. I, as a [specialist] of Public Communication and Marketing Department was [invited] to go to the meeting because a head of department [M. J.], holding office at that time, could not go for reasons unknown to me, and delegated me” (underlined us).

Paragraph 1 of the Procedure for business trips provides for that “the official business trip shall be deemed the departure of a staff member for a certain period of time by the delegation of director from the permanent work place to perform a service assignment”, paragraph 4 – “Delegation to a business trip shall be drawn up by the order of the Director of the College”, sub-clause 4.2 – “The application shall be completed taking into account the business trip related documents: invitation (informative notification), program of the event, estimated expenses and other documents attached to the application.”

Sub-clause 1.2 of the Code of Academic Ethics of the College (hereinafter - the Code) states that academic ethics is “the academic values recognized by the academic community as enshrined in the Code of the College that ensure the transparency of the learning and study process, academic integrity, equality, justice, non-discrimination, accountability, sustainable use of resources, academic freedom, <...> trust, respect <...> “.Sub-clause 1.4 of the Code defines fundamental values of academic ethical: “academic integrity, responsibility, equality, justice, non-discrimination, accountability, transparency, sustainable use of resources, academic freedom, <...> trust, respect”.

The following functions are specified in paragraph 4 of the Code: “to coordinate organizational behaviour with the values of society and principles of academic ethics by meeting the needs and interests of members of the community” (sub-clause 4.1); “to help members of the academic community to understand their mission in society, social responsibility” (sub-clause 4.3); “to help achieve greater transparency in the activities of the College” (sub-clause 4.4); “to show to the society that the College is concerned by responsible, professional conduct” (sub-clause 4.5); “to form and protect the image of the College” (sub-clause 4.6). Sub-clause 11.1 of the Code stipulates that “the use of the scientific base of the College, the use of other resources shall be sustainable, responsible and dedicated to the implementation of the obligations assumed by the College. This provision shall be deemed violated in case of the use of material, human and financial resources of the College for political activity, private business or personal needs” (underlined by us).

After analysing and evaluating the factual circumstances and legal regulation, it was determined as follows:

Taking into account the information provided on the College website <http://new.marko.lt/konkursas-marijampoles-kolegijos-direktorius-pareigoms/>, the competition for the post of Director of the College was published on 2 February 2016. In this case, the meeting at the house of the Director of the College on 19 February 2016 has already taken place after commencing the procedure for the post of Director of the College. The trip of the members of the Student’s Union of the College and the staff of the College to the Director of the College Vaidotas Viliūnas on 19 February 2016 by the vehicle Ford Transit owned by the College, licence plate No <...>, was confirmed by the president of the Student’s Union of the College during the meeting at the Office on 5 December 2016, and on 11 January 2017, by Vaidotas Viliūnas, Director of the College, on 31 January 2017 - by the [specialist] of Public Communication and Marketing Department L.P. The abovementioned data is also indicated in the letter No KS-425 of the College of 7 December 2016; the log for the reservation and use of vehicles in February 2016; the request of the [head] of Public Communication and Marketing of the College M. J. of 18 February 2016; the request of the [specialist] of Public Communication and Marketing Department L.P. of 18 February 2016 relating to his business trip; waybill of non-shared use of the bus of 19 February 2016; the list of students and staff of the College who went to Kaunas on 19 February 2016.

Vaidotas Viliūnas, Director of the College, presented VAT invoice of the College of 23 February 2016 and statement confirming the payment for the transport services provided by the bank.

Order No 5K-31 “Relating to the business trip of [L. P.]” of 18 February 2016 does not specify the location, purpose, participants and other important circumstances of the business trip, only

mentioned “to Kaunas, to attend a meeting and to share good management experience”, although paragraph 1 of the Procedure for business trips states that “the business trip of an employee is deemed to be the departure of a staff member by the delegation of director <...> to perform a service assignment” (underlined by us).

*Attention should be drawn to the fact that sub-clause 1, paragraph 4 of Article 71 of the Law on Higher Education and Research of the Republic of Lithuania stipulates that “staff of scientific and educational institutions shall <...> follow the Code of Academic Ethics”. Paragraph 4 of Article 17 of the same Law provides for that the staff of science and study institutions are “the lecturers, research staff members, other researchers, administration and other employees of science and study institutions”. Sub-clause 3.4 of the Code of Academic Ethics of the College states that the purpose of the Code is to “discipline the members of the academic community; sub-clause 3.6 – “to regulate the behaviour of the members of academic community”. Sub-clause 1.1 of the Code states that “the academic community is the College students, lecturers, research staff members, other researchers and emeritus professors”, while the administration and other employees are not indicated (underlined by us). Such regulation is inadequate and contradicts the aforementioned provisions of the Law on Higher Education and Research.*

*It is also noteworthy that the Procedure for business trips of the College does not establish staff reporting procedures. Such regulation is insufficient and does not ensure the implementation of the principles of accountability and transparency enshrined in sub-clause 1.4 of the Code of the College.*

Considering the fact that the Director of the College did not provide explanations according to the Ombudsman’s request to indicate “the circumstances of the business trip of [specialist L.P.] of Public Communication and Marketing Department to Kaunas (nature, location, purpose, etc.) on 19 February 2016”, and did not provide any documents confirming the purpose of the meeting, the nature of the program other than personal, and did not indicate the reasons for non-submission of such data, it follows that the behaviour of the Director of the College is in conflict with, among other things, the principles of responsibility, accountability, trust and respect enshrined in sub-clause 1.4 of the Code.

Vaidotas Viliūnas, pretending to the post of the Director of the College, approved the trip of members of the Student’s Union of the College, including the president of the Student’s Union holding the right to vote in the Director’s election, to his house and did not take any measures to avoid doubts about the conflict of interest. Such behaviour should be assessed as violating the principle of equal rights to participate in the competition with regard to other candidates and contrary to the

fundamental principles enshrined in sub-clause 1.4 of the Code, such as the principles of honesty, equality and fairness.

*In the light of the facts above, it should be held that Vaidotas Viliūnas, the Director of the Marijampolė College, has violated the principles of responsibility, accountability, trust, respect, integrity, equality and justice enshrined in sub-clause 1.4 of the Code of Academic Ethics.*

After the evaluation of the documents provided by the applicant and the College as well as the 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, Marijampolė College and the Ministry of Education and Science about the violations of academic ethics and procedures committed by Vaidotas Viliūnas, the Director of Marijampolė College.

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

Ombudsman for Academic Ethics and Procedures

Vigilijus Sadauskas