



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

DECISION REGARDING THE VIOLATIONS OF ACADEMIC ETHICS AT KAUNAS UNIVERSITY OF TECHNOLOGY

2 March 2017 No SP-6
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“ (hereinafter – the Provisions) approved by Subparagraph 1 of Paragraph 13 of the provisions of the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania, and after examination of the complaint of the Association of Trade Unions of

Lithuanian Higher Education Schools (hereinafter referred to as LAMPSS) received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 4 May 2016 regarding possible violations of academic ethics and procedures of Kaunas University of Technology (hereinafter - LAMPSS complaint); the complain of the applicant S.V. (hereinafter – the applicant) received on 30 May 2016 regarding possible violations of the procedure for election of the rector of the Kaunas University of Technology Petras Baršauskas (hereinafter - the complaint) and after evaluation of the material submitted by the Office of the President of the Republic of Lithuania, Kaunas University of Technology, the Seimas Committee on Education, Science and Culture and other interested parties to the Office, also after linking the appealed circumstances with the circumstances determined in the decision No SP-11 of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Decision) of 5 May 2016 “Regarding the Establishment of the Council of Kaunas University of Technology”,

determined:

The LAMPSS complaint states that: 1) The term of office of the Council of Kaunas University of Technology elected In 2011 (hereinafter - the Council) has expired, and the new Council has not been elected yet; 2) the formation of the KTU Council in 2011 is unclear; 3) the chair of the Senate of Kaunas University of Technology (hereinafter - the Senate) extended the term of office for the Council elected in 2011 and approved in 2012 (almost the same composition); 4) possible fictitious

placement of R. Kuodis in the position of associate professor at KTU; 5) the transaction of the purchase of ISM shares is unclear and potentially criminal.

The LAMPSS complaint requests: 1) to recommend to the Senate to cancel the decision on the end of the term of office of the Council (i.e., 30 September 2017); 2) to recommend to the Senate to organize the Council elections as soon as possible; 3) to oblige the KTU to postpone the tender for the selection of the rector until the formation of the new Council; 4) apply to the court if the sign of criminal offense by KTU is determined.

The following actions of Kaunas University of Technology are indicated in the complaint: 1) possibly unlawful elections of the rector; 2) an indication of the dean of the KTU Faculty of Economics and Business, E. Gimzauskienė, sent by e-mail to the community of the faculty before the election of the rector of the KTU that the information received about the lawfulness and evaluation of the rector election should be left to lawyers and refrain from interpretations.

The complaint requests “to apply to law enforcement institutions and stop the illegal activities of the KTU Council, as well as the authority of the illegally elected rector in order not to waste the funds of KTU for the fictitious conclusions of lawyers and the delay of judicial proceedings.

To receive an answer whether Hon. Dean Edita Gimzauskienė, by her address to the EVF community, did not violate the academic ethics by possible pressure on the members of the EVF community, and thereby indirectly prohibiting them from expressing their opinion on the processes taking place at KTU.

To assess whether by the open statement “So if we get involved into this vortex of the politics, rivals or personal ambitions, ultimately, the image and reputation of the university and the faculty will be hit that will inevitably respond to the results of this year’s results” and the rest of the text there is an attempt to impose compulsively on the community the provision that the member of the EVF, who seeks to ensure that the processes taking place in KTU are legal and transparent, is a “dissident” and a “pest”? Moreover, whether this text does not attempt to impose on the members of the community the consequences of unlawful management, and thus to make them responsible for the continuous, and on top of all that, the degrading economic indicators of the university? Also, it would be desirable to know whether, in this way, the pretext to discriminate the members of the EVF who have a different opinion than Dean Edita Gimzauskienė, and thus to encourage the marginalization of these members is created?”¹

In addition, the e-mails (reports) of the persons concerned² were received in the Office on 26 September 2016, 27 September 2016, and 21 October 2016 indicating the circumstances that the Ombudsman is requested to investigate relating to the purchase of ISM shares, the work activities of R. Kuodys, Executive Director of the KTU, Director of the European Institute, Director of the Committee for Sociology and Social Policy Study Program, Head of the Institute of Communication of Kaunas University of Technology, Head of the School of Leadership of Kaunas University of Technology and other persons as well as the funding thereof at Kaunas University of Technology, the activities carried out by the KTU Municipal Training Centre, the heads of free postgraduate studies, doctoral studies in economics, and related information was submitted.

¹ The language of the applicant here and further in the text is unedited.

² The details of the persons concerned are known to the Office.

After analysing and evaluating the above-mentioned circumstances the Ombudsman is requested to investigate, the Ombudsman examined the circumstances indicated in the above-mentioned complaints and reports by conducting a systematic investigation of possible violations of academic ethics and procedures at Kaunas University of Technology.

It should be noted that the Ombudsman did not examine the issues not assigned to his competence.

1. On the organization and execution of the rector election

The Ombudsman applied to KTU by letter No S-443 of 5 December 2016 “On submission of information”, asking, inter alia:

“<...> to submit the requirements for the rector stated in the announcement of the tender for the position of rector carried out at Kaunas University of Technology in 2016. <...> “.

KTU submitted a copy of the announcement of the tender for the position of rector of the university by the letter No DV2-89 of 29 December 2016.

The announcement states that the international tender for the position of Rector of Kaunas University of Technology is announced. Also, the announcement states that “Persons wishing to participate in the tender must submit the required documents in a sealed envelope in the Lithuanian language or by enclosing translations into the Lithuanian language duly certified according to the laws as follows:

1. application for participation in a tender (free form);
2. a copy of the document confirming the identity;
3. a copy of the document certifying higher education;
4. a copy of the document certifying the award of a degree;
5. documents proving pedagogical and managerial experience;
6. curriculum vitae, contact details;
7. the formulated vision of the Kaunas University of Technology, guidelines for its activities;
8. other documents and data (knowledge of foreign languages, etc.) which, in the opinion of the candidate, it is expedient to submit.

The State Language Inspectorate, after examining a complaint regarding the fact that the announcement of the public international tender for the position of the rector published by the Kaunas University of Technology does not contain a requirement to know the state language, and stated that Article 6 of the Law on the State Language of the Republic of Lithuania “establishes an imperative requirement for heads, employees and officers of state and municipal institutions, establishments and services to know the Lithuanian language <...>. Kaunas University of Technology has the status of a public institution, but it is necessary to draw attention that this is a public school of higher education, the founder of which is the Seimas of the Republic of Lithuania; therefore, heads of such institutions must know the state language according to the third category of the state language as established in paragraph 9 of Resolution No 1688 of the Government of the Republic of Lithuania of 24 December 2003. <...> for performance of the duties of the rector, the prospective candidate for the position must know the state language” (Letter No. 10V-217 of the State Language Inspectorate “On the Use of the State Language” of 10 May 2016).

In addition, the announcement states that “the Council meeting on the rector election will take place on 12 May 2016”. *It should be noted that the data submitted to the Ombudsman by the persons concerned about the news that the rector of the KTU Petras Baršauskas was re-elected for second*

term of office show that the news was published on 12 May 2016 at 8 o'clock in the morning, while the elections took place on 12 May 2016.

Taking into account the fact that the result of the election of the KTU rector was announced, i.e. it was reported that Petras Baršauskas was re-elected rector of the KTU for the second term of office before the election procedure was completed, and the KTU did not submit the data to the Ombudsman that the rector elections took place by 12 May 2016, 8 am, there are doubts about ensuring the principles of transparency, justice and objectivity in the process of organizing and conducting elections of the rector of the KTU.

Sub-clause 5 of Paragraph 26 of the Statute of the Kaunas University of Technology (hereinafter - the Statute) stipulates that the Council, “after evaluating after evaluating the proposals of the Senate confirms the procedure of the elections of the Rector of the University. Elects <...> appoints the Rector <...>”. Paragraph 57 of the Statute stipulates that “a public competition for the post of the Rector is announced by the Council <...>”.

In view of the foregoing, the above-mentioned Council functions related to the organization and execution of the Rector elections, the failure to indicate in the announcement on the public international tender for the post of the Rector that the candidate for the post of Rector must know the state language and failure to evaluate the requirement for the knowledge of the state language should be assessed as a negligent execution of the duties of the Council set in the internal legislation of KTU as well as failure to take sufficient actions to ensure the implementation of a legal tender procedure based on the procedures for organizing and conducting elections approved by the Council.

It should be noted that the Ombudsman, in the decision No SP-11 “Regarding the Formation of the Council of Kaunas University of Technology” of 5 May 2016, within his competence, stated the violations of some members of the Council related to the election procedures, but did not assess inter alia the legality of the Council decisions, including the announcement of the decision to the announcement of public tender for the post of the Rector.

There are no grounds for the Ombudsman, having the opportunity to evaluate only the content of the address of the Dean of KTU Faculty of Economics and Business Edita Gimžauskienė, to state the violation of academic ethics made by the address of Edita Gimžauskienė, as well as *making forced pressure, indirect prohibition* to express own opinion on the processes taking place at KTU.

II. On work activities of R. Kuodis and other people at Kaunas University of Technology

In order to ascertain the circumstances of the investigation regarding the work activities of R. Kuodis and other persons³ at KTU, the Ombudsman applied to KTU by the letter No S-217 “On Submission of Information” requesting to submit:

- “1) the documents confirming the employment relationship of Raimondas Kuodis with KTU from the beginning of employment;
- 2) job description and functions of Raimondas Kuodis;
- 3) to enclose additional documents proving the academic activity of the said person (e.g., timetables, descriptions of subjects taught, sheets, etc.)”

³ The data of other persons are not published because KTU did not indicate any circumstances in relation to their work activity; therefore, it was no possibility to assess the mentioned circumstances in the Office.

By letter No DV10-471 of 20 May 2016, KTU submitted the following documents confirming the working relationship with R. Kuodis: 1) fixed-term employment contracts signed in 2012 and 2014; 2) time sheets of 2012-2016; 3) plans of pedagogical work for 2012-2016 and reports thereof.

Attention should be drawn to the fact that the plan of pedagogical work for 2012/2013 and the report show that in the autumn semester, R. Kuodis taught the study modules of competition analysis and forecasting (34 students), forecasting of business environment in a global environment (12 students), and in the spring semester - the module of competition analysis and forecasting (44 students). The plan of pedagogical work for 2013/2014 and the report show that in the autumn semester, R. Kuodis taught the study module of forecasting of business environment in the global economy (35 and 23 students), in the spring semester - the study module of macroeconomics (71 student). The summary of the individual plan of the lecturer for 2014/2015 indicated that in the spring semester, R. Kuodis taught the subject of forecasting of business environment in the global economy (85 students), experimental and social development works and social development works (2 works), update of the module, implementation of expert educational activities (an expert in economics degree program of I and II cycle) should have been performed. As indicated in the summary of the individual plan of the lecturer for 2015/2016, in the autumn semester, R. Kuodis taught subjects of the public economy (62 students), organization of business environment in the global economy (73 students) and international reporting (46 students). It was also planned to carry out experimental and social development works, to perform the expert educational activities and expert activities in the updating of Economy programs.

It is noteworthy that all plans/reports and summaries provided by the KTU to the Office indicate the planned and completed work, but the plans sent to the Office are not signed.

Attention should be paid to the extract of the minutes No VI9-0604-19 of the meeting of the Department of Economics of the KTU Faculty of Economics and Business Faculty of 4 November 2014, which states that on 22 October 2014, when discussing Bachelor's and Master's programs in Economics, R. Kuodis "delivered a lecture to several groups of students on the topic "Eurozone Crisis: Origins, Consequences, Solutions".

In addition to these documents, a copy of the job description of the associate professor of KTU was submitted, copies of employment contracts with R. Kuodis of 2012 and 2014 and copies of announcements of lectures delivered by R. Kuodis.

By the letter No S-233 of 31 May 2016, the Ombudsman applied to KTU asking to submit the timetable of the subjects taught by Raimondas Kuodis, the documents substantiating the organization and execution of examinations (list of students, assessments, etc.)". It was also asked to distribute anonymous questionnaires to the students of the Department of Economics of the KTU Faculty of Economics and Business, who had to be taught the subjects indicated in the time sheets and assigned to R. Kuodis.

By letter No DV10-534-1 dated 6 June 2016, KTU pointed out that submitted all documents related to the recruitment of R.K. by the letter No DV10-471 of 20 May 2016. It also informed that "the Division of Pre-trial Investigation of Kaunas Board of the Special Investigations Service of the Republic of Lithuania <...> conducted an investigation and did not establish the fact of illegitimate employment of R. Kuodis. The STT determined that the timesheets are likely to have been filled for R. Kuodis at the KTU Department of Economics of Faculty of Economics and Business **potentially** in violation of Resolution No 78 of the Government of the Republic of Lithuania on the model form of the timesheet and the procedure for filling in thereof; the STT informed the University of this fact

by the letter No 4-07-545 on 13 May 2016. <...> “In addition, the KTU has requested “<...> to terminate the examination of the complaint that was commenced at the Office of the Ombudsman for Academic Ethics and Procedures on 4 Mat 2016 relating to possible illegal employment of R. Kuodis, since such fact was not established by the STT after the investigation”..

By the letter No S-254 of 16 June 2016, the Ombudsman repeatedly addressed the Head of the Department of Economics of KTU Faculty of Economics and Business requesting “to submit the following additional documents:

- 1) timetables of subjects taught by R. Kuodis and the dates of examinations;
- 2) documents certifying the organization and execution of examinations;
- 3) Lists of students attending lectures by R. Kuodis (i.e., names and surnames, e-mail addresses):
 - a) 2012-2013: Forecasting of business environment in the global economy - 12 students (autumn semester), competition analysis and forecasting - 34 students (autumn semester) and 44 students (spring semester);
 - b) 2013-2014: Forecasting of business environment in the global economy - 35 students and 23 students (autumn semester), macroeconomics 2 - 71 student (spring semester);
 - c) 2014-2015: Forecasting of business environment in the global economy - 85 students (autumn semester);
 - d) 2015-2016: Public economics - 62 students (autumn semester), forecasting of business environment in the global economy - 73 Students (autumn semester), international settlements - 45 Students (autumn semester)”.

KTU did not provide the information requested by the Ombudsman by the letter of No DV10-618-1 of 18 July 2016; however, among other things, inquired whether the Ombudsman could “<...> indicate the legal basis and specific provisions of the legislation that establish the powers for the Ombudsman for Academic Ethics and Procedures to examine complaints on allegedly illegal employment? <...>” The KTU also expressed its opinion that “<...> the Ombudsman for Academic Ethics and Procedures, as a public official, as well as the Office of the Ombudsman for Academic Ethics and Procedures, as a budgetary institution, is subject to the Law on Public Administration and the Ombudsman must follow the principles of public administration in his day-to-day activities. <...>” KTU highlighted the principles of non-abuse of power and efficiency, and requested the confirmation that “<...> such a repeated examination of the complaint in another public administration institution does not violate <...>” of the above-mentioned principles. In addition, the KTU noted that “<...> the University has no written consent of the students to provide their personal data to the Ombudsman for Academic Ethics and Procedures. <...>” and repeatedly asked “<...> to examine the letter No DV-10-534-1 of the University of 13 June 2016, in which we ask to terminate the examination of the complaint about the possible illegal employment of R. Kuodis at the University”.

Taking into account the fact that KTU did not submit the documents to the Ombudsman proving the actual time worked by the associate professor R. Kuodis, the Ombudsman applied to the Division of Pre-trial Investigation of Kaunas Board of Special Investigation of the Republic of Lithuania by the letter No S-255 of 16 June 2016 requesting to provide the documents proving the time actually worked by R. Kuodis and other information specified by KTU related to the activities of R. Kuodis at the KTU.

By the letter No 4-07-668 dated 22 June 2016, the Division of Pre-trial Investigation of Kaunas Board of Special Investigation of the Republic of Lithuania submitted a copy of the report of the witness, who was R. Kuodis.

The Ombudsman addressed to R. Kuodis by the letter No S-311 of 31 August 2016, inviting him to arrive at the Office to provide explanations regarding the work at the KTU. No response was received.

By the letter No S-408 of 22 November 2016, the Ombudsman repeatedly addressed to R. Kuodis, inviting him to arrive at the Office to provide explanations on the work at the KTU.

By the letter No S-443 of 5 December 2016, the Ombudsman applied to the KTU, requesting, inter alia:

“<...> 2.1. According to Paragraph 1 of Article 65 of the Law on Higher Education and Research of the Republic of Lithuania, to indicate the legal basis for the recruitment of R. Kuodis to the Kaunas University of Technology and provide supporting documents (from the beginning of employment to the present day).

2.2. To present the description of the subjects have been taught and being taught by R. Kuodis.

2.3. To submit annual reports of pedagogical and scientific work of associate professor R. Kuodis (see paragraph 35 of the job description of the post of associate professor at KTU).

2.4. To indicate the terms of the execution by R. Kuodis his pedagogical activities and provide documents confirming these terms.

2.5. To answer whether the activity of R. Kuodis at Kaunas University of Technology was certified. If yes, to provide the documents confirming the certification. <...>”.

KTU did not provide the information requested by the Ombudsman regarding the work activities of R. Kuodis at Kaunas University of Technology by its letter DV2-89 of 29 December 2016, and, among other things, proposed to apply to the STT for the documents requested by the Ombudsman. It also repeated that STT had carried out the investigation and did not identify illegal employment of R. Kuodis.

R. Kuodis arrived at the Office on 12 December 2016 and provided explanations about his activities at KTU.

R. Kuodis pointed out that after the ruling of the Constitutional Court of the Republic of Lithuania “<...> I offered to leave the Council of KTU <...>. But the leadership says that <...> my knowledge is needed in the Council <...>, they solved this issue by offering to work for them by taking some sort of tenure, but the contract was not on the reading of periodical lectures <...>. And it was agreed that I will read them, well, a kind of long occasional lecture once in half a year. <...> for some reason, [interested parties] interpreted that I promised to read periodic lectures; then they see that I do not read them; some horrible theory of conspiracy started that somebody here teaches instead of me; that someone here is covering me, etc. <...> I read occasional lectures, I help them. I did not sign for a specific subject. <...> there are the occasional lectures that I read from time to time, of such large volumes, just of a few hours, and everything else. So, they interpreted this saying that I supposedly have to teach the public economy. I have not signed anywhere how and what I will teach. <...> I helped them prepare for the restructuring of the structure, and I used to travel there to them. I indicated how economic studies should look like, etc. <...> It was also an agreement that I would assist in those strategic issues that I also contribute in the Council as well. That is all. <...> I do not even know, in fact, how much I earn there. How they formalized my employment there - I have never showed interested. <...>“ (The information in the square brackets is ours) (underlined by us).

The employment contract of 2012 stipulates that R. Kuodis has been employed at the Department of Economics and International Trade as an associate professor in non-full-time position of 0.25 of the full-time for 9 hours per week. The employment contract is valid until 30 June 2014.

The employment contract of 2014 stipulates that R. Kuodis is employed at the Department of Economics and International Trade as an associate professor in non-core position of 0.25 of the post for 9 hours per week. The employment contract is valid until 30 June 2016.

The KTU timesheets submitted to the Ombudsman for the years 2012-2016 revealed that the workload indicated by R. Kuodis, i.e. the hours actually worked per month are as follows: in 2012 (data from July to December) - from 30.36 to 41.24 hours; in 2013 (data from January to December) - from 9.00 to 41.24 hours; in 2014 (data from January to October) - from 9.00 to 41.24 hours; in 2015 (data from January to December) - from 3.12 to 39.36 hours; in 2016 (data from January to April) - from 36.00 to 37.48 hours.

Attention should be drawn to the fact that, at the request of the Ombudsman to provide additional documents confirming the academic activities of associate professor R. Kuodis were submitted by the KTU on 22 October 2014, October 22 on the website of KTU on the fact that an open lecture of Dr Raimondas Kuodis “The crisis of the Eurozone: Origins, Consequences, Solutions” will be held at the KTU Faculty of Economics and Business on 22 October 2014; a report of 28 September 2015 on the website of KTU about the lecture of Dr Raimondas Kuodis at the KTU Faculty of Economics and Business “The activities of the central banks are just a nice game”; a report of 24 September 2015 on the website of KTU about the lecture of Dr. Raimondas Kuodis at the KTU Faculty of Economics and Business “Monetary Policy: Why It Works So Weakly”; a report of 4 April 2016 on the website of KTU about an open discussion on “Demographic Challenges and Lithuania’s Response” held at the KTU Faculty of Social Sciences, Humanities and Arts on 23 March, which was also attended by an economist Dr. R. Kuodis, and the information on the study program “Economics”, in which an associate professor R. Kuodis is listed as a visiting lecturer on the topic “Macroeconomic Policy: The Role of Modern Central Banks”.

KTU did not submit the documents confirming the periodical, regular and methodical teaching of subjects by R. Kuodis, as indicated in the above-mentioned the timesheets of 2012-2016 submitted by the KTU and methodical and systematic participation of R. Kuodis in the study process to the Ombudsman.

Sub-clause 30.1 of job description of associate professor of KTU approved by the Order No A-94 of the rector of the KTU on 3 March 2005 (hereinafter - the job description of associate professor) indicates one of the main tasks of the associate professor – “the study process (compiling and changing of curricula; developing new curricula and continuous improvement of available ones; reading lectures; encouraging discussions and independent thinking of students; organization of examinations or tests; assessment of the student’s work, etc. Paragraph 1 of job description of an associate professor states that “associate professor, while working in accordance with the University Statute and the internal rules of procedure, must comply with the laws of the Republic of Lithuania and resolutions of the Government as well as other legal acts and internal organizational and administrative documents regulating the activities of <...> and other employees.” Paragraph 39 of job description of associate professor states that “in accordance with the procedure established by the laws of the Republic of Lithuania, the associate professor shall be liable for failure to perform the functions (duties) specified in these Regulations, inappropriate execution <...>” (underlined by us).

Attention should be drawn to the fact that the job description of the associate professor does not mention the link between the job description of the associate professor and the regulations; but if the job description of the associate professor is called the regulations, the functions (duties) of the associate professor are not defined therein, but the said provision should be based on the requirement of responsible behaviour of the associate professor.

Paragraph 120 of the Statute stipulates that “The University staff involved in research and study activities must comply with the academic ethics and perform other duties determined in the Statute of their institution (rules, regulations) and work contracts”. Paragraph 141 of the Statute states: “<...> a researcher in docent’s position must teach students, conduct research works and experimental (social, cultural) development to govern them and announce the results of this activity. <...> “.

Paragraph 3 of Article 65 of the Law on Higher Education and Research stipulates that “<...> a scientist holding a position of associate professor shall teach students, carry out research and experimental development, publish the results of activity thereof”. Sub-clause 2, paragraph 2 4 of Article 71 of the Law on Higher Education and Research establishes the duty of the staff of higher and research institutions “to perform the duties stipulated in the statute (articles of association) of their institution and the employment contracts”.

Sub-clause 2, paragraph 2 of Article 3 of the Law on Higher Education and Research establishes the principle of academic ethics. Paragraph 2 of Article 4 of the Law on Higher Education and Research establishes the concept of “academic ethics” as “the totality of the universally recognized values ensuring the transparency of the process of education and studies, integrity, justice, equality of persons involved in this process, non-discrimination, responsibility, sustainable use of resources, academic freedom, impartiality of evaluation of research and study works, trust, respect and protection of intellectual property“.

After evaluating the data provided by KTU and explanations of R. Kuodis to the Office, it should be concluded that the above-mentioned workload of the associate professor R. Kuodis indicated in employment contracts, plan of pedagogical work for years 2012/2013 and report, plan of pedagogical work for years 2013/2014, summary of individual plan of lecturer for years 2014/2015, summary of individual plan of lecturer for years 2015/2016 and timesheets 2012-2016 differs from the actual workload at Kaunas University of Technology.

Taking into account the foregoing, and in accordance with the provisions of the Law on Higher Education and Research, the Statute, the job description of an associate professor, and provisions of employment contracts, it should be stated that the associate professor R. Kuodis, having not participated in the study process, but only reading individual lectures, although the workload 9 hours per week was agreed by the employment contracts, and thus not fulfilling one of the tasks entrenched in the job description of the associate professor to participate in the study process and the duty of the associate professor to teach students, carry out research and experimental development, publish the results of this activity as set out in the Law on Higher Education and Research and the Statute, without taking any actions in order to clarify the truth and ensure the transparency of the study process, equality of the persons involved in study process, responsibility and honest, fair and sustainable use of resources in terms of receiving remuneration only for the time actually worked, has violated:

– Paragraph 3 of Article 65 of the Law on Higher Education and Research to the extent it is established that a scientist holding a position of associate professor shall teach students, carry out research and experimental development, publish the results of activity thereof;

– *Sub-clause 2 of Paragraph 4 of Article 71 of the Law on Higher Education and Research, which stipulates that the duty of the staff of higher and research institution is “to perform the duties stipulated in the statute (articles of association) of their institution and the employment contracts”;*

– *The principle of academic ethics established in sub-clause 2 of paragraph 2 of Article 3 of the Law on Higher Education and Research;*

– *Paragraph 120 of the Statute, which stipulates that the University staff involved in research and study activities must comply with the academic ethics and perform other duties determined in the Statute of their institution (rules, regulations) and work contracts;*

– *Paragraph 141 of the Statute to the extent it is established that a researcher in docent’s position must teach students, conduct research works and experimental (social, cultural) development to govern them and announce the results of this activity;*

– *Paragraph 1 and sub-clause 30.1 of the job description of the associate professor to the extent it is established that one of the main tasks of the activities of associate professor is the study process.*

Sub-clause 3 of Paragraph 55 of the Statute provides for that the Rector shall employ and dismiss employees. Sub-clause 8 of Paragraph 55 of the Statute stipulates that the Rector “shall <...> be responsible for the University’s financial activity, adequate management, use and disposal of the funds and assets”. Shall consider and adopt decisions related to the University funds (including funds intended for the remuneration of and administrative staff and other employees) and property management, use and disposal thereof. <...>”.

Paragraph 109 of the KTU Provisional Academic Regulation approved by the Resolution No V3-S-48 of the Senate of Kaunas University of Technology of 20 June 2012 (hereinafter – the Regulation) stipulates that “<...> The rector shall approve the scope of teaching work of each academic department is determined every academic year and is based on students’ individual study plans and students and university teachers’ proportional rates which are related with the tuition fees”. Paragraph 110 of the Regulation states: “<...> The detailed teaching workload and other workload calculation procedures are defined by Rector’s order”. Paragraph 112 of the Regulations stipulates that “Teaching work record is acknowledged if the employee teaching work equivalent comprises at least one-fourth of the full-time equivalent. <...>”. Paragraph 114 of the Regulations states: “The procedure of payments to the teaching staff is defined by Rector”. (Underlined by us).

It should be noted that although the information provided by KTU regarding the work activities of the associate professor R. Kuodis at the KTU is different from the circumstances specified by the associate professor R. Kuodis, the data provided by KTU regarding the reading of individual lectures mentioned by the associate professor R. Kuodis is confirmed by the circumstances specified by the associate professor R. Kuodis, but not by the regular participation in academic activities of R. Kuodis argued by the KTU, although in all cases the Ombudsman’s request to provide information about the work activities of associate professor R. Kuodis and other persons (see page 4 of the decision) was also addressed to the rector of the KTU, P. Baršauskas, however, the position of the rector of the KTU on the said matter was not submitted to the Ombudsman. In this case, the inaction of the rector of the KTU P. Baršauskas as the head of the university, as a person employing the staff, responsible for the financial activities of the University, proper management and use of funds and

assets, considering and adopting decisions regarding the funding of the University (including funds for the remuneration of administration and other employees) and the management, use and possession of the assets, should be assessed as the Rector's irresponsibility and neglect of duty.

Taking into account the foregoing, in accordance with the provisions of the Law on Higher Education and Research, the Statute and the KTU Provisional Academic Regulations, and assessing the previously presented legal regulation regarding the status of the rector and the opportunity to receive and provide the necessary information and take actions to clarify the truth about the employees of KTU, in the case under consideration, the participation of associate professor and member of the Council R. Kuodis in the study process and the pedagogical workload of the Docent and Council member R. Kuodis and the aforementioned other persons (see page 4 of the decision), and to ensure the transparency of the study process, equality of persons involved in the study process, transparency, honesty, justice and the adoption of decisions related to the use and disposal of the funds of the University (including the funds allocated to the remuneration of the administration and other employees) as well as the management of the assets, and aimed at the sustainable consumption of resources, it should be stated that such inaction of the rector of KTU P. Baršauskas is in conflict with the principle of academic ethics set forth in sub-clause 2 of Paragraph 2 of Article 3 of the Law on Higher Education and Research to the extent it provides for in terms of the payment of a fee for the sustainable consumption of resources to the associate professor R. Kuodis and for the actual hours not worked, the transparency of the study process, equality of persons involved in the study process, transparency, integrity and justice as well as the provision in terms of provision of the information in order to clarify the truth.

III. On the transaction of purchase of the shares of ISM Management and Economics University.

In view of the fact that the Ombudsman, inter alia, supervises the observance of the principle of academic ethics that one of the provisions of the concept of academic ethics enshrined in the Law on Higher Education and Research is the sustainable use of resources, the Ombudsman applied to the National Audit Office of the Republic of Lithuania by the letter No S-240 of 8 June 2016, requesting the National Audit Office of the Republic of Lithuania to carry out an audit at the KTU and submit the conclusions to the Ombudsman.

By the letter No S-(50-1.8)-1036 of 17 June 2016, the National Audit Office of the Republic of Lithuania informed that “<...> pursuant to Articles 9 and 14 of the Law on National Audit Office of the Republic of Lithuania, the National Audit Office carries out public audits in accordance with the annual state audit programs approved by the State Controller. Paragraph 5 of Article 14 of this Law states that only the Seimas may by its resolution assign the National Audit Office to perform public audit within the competence of the National Audit Office”.

The National Audit Office of the Republic of Lithuania informed the Ombudsman by the letter NO S-(50-1.8)-1805 of 11 November 2016 that the state audit of the management, use and disposal of long-term state-owned assets of universities is currently being carried out, during which the legitimacy of the transaction mentioned in the letter will be assessed.

It should be noted that considering the fact that, as the National Audit Office informed, the audit of KTU will take longer, the Ombudsman, in the absence of findings of the audit being performed by the National Audit Office, did not assess the potential opacity and illegitimacy of the transaction of the purchase of ISM shares in terms of the sustainable use of state assets, but after

receiving the findings of the National Audit Office and having assessed them, the Ombudsman will decide on conducting an investigation in the said circumstances.

IV. On the activities carried out by the KTU Municipal Training Centre, possibly free postgraduate studies for the heads and on doctoral studies in economics

The persons concerned stated in their e-mail of 21 October 2016, inter alia, that “<...> according to the law and its status <...> [KTU Municipality Training Centre] is not entitled to organize the studies providing academic degrees. It can only carry out short-term refresher trainings. According to the data of [the persons concerned], this centre has lumped its refresher trainings together with the studies granting diplomas. According to the data available to [the persons concerned], the unit has illegally organized such studies from the EU funds. <...> KTU for the resources of the EU social fund even 106 politicians and officials of Kaunas city municipality were directed to study at university studies providing higher education diplomas. <...> of the above-mentioned 106 people, even 16 people – politicians of the municipal council and high officials - went to hear the modules of doctoral studies in economics (!). <...> “.

By the letter No S-444 of 5 December 2016, the Ombudsman addressed to Jolanta Vaičiūnienė, Director of the Municipal Training Centre of Kaunas University of Technology, requesting:

- “1) to submit the documents for the establishment of the Municipal Training Centre;
- 2) to indicate the functions of the Municipal Training Centre and submit the documents confirming them (functions);
- 3) to indicate the names, surnames and positions of the teachers, having taught and teaching at the Municipal Training Centre, at Kaunas University of Technology;
- 4) to submit a duly certified copy of the service contract No SR-0573 of 30 July 2012 of the Kaunas City Municipality and the Kaunas University of Technology and the documents confirming the execution of this contract;
- 5) to submit a legal act regulating the procedure of studies implemented on the basis of the said contract;
- 6) to indicate the source of financing of the services provided on the basis of the said contract;
- 7) to provide the documents confirming the completion of the studies carried out on the basis of the said contract (e.g. certificate, certification, diploma, etc.);
- 8) to answer whether the Municipal Training Centre has implemented the doctoral studies for the heads. If yes, to submit the legal acts regulating the admission to doctoral studies and the process of such studies;
- 9) to indicate the source of funding for the said doctoral studies.”

By the letter No V22-1232-30 dated 30 December 2016, Jolanta Vaičiūnienė, Director of the Municipal Training Centre of the Faculty of Social Sciences, Humanities and Arts of Kaunas University of Technology, presented the documents requested and stated that “<...> in order that the organized trainings, courses, seminars and sessions on the conveyance of the knowledge in other form of the highest quality, and they would be carried out only by professionals in their field with the necessary qualification as well as practical experience, Municipal Training Centre does not employ full-time lecturers. Taking into account the specifics of ongoing projects and curricula, the lecturers from the Faculty of Social Sciences, Humanities and Arts as well as from other faculties of the University are invoked. In the event the person with the appropriate qualification and practical

experience is not found at the University, public procurement tenders are announced and the services of lecturers who meet the requirements for a particular case are purchased. <...>

When providing the training services, the Municipal Training Centre was guided by the procedures stipulated in the Order No A-224 of the rector of the University of 11 April 2006 on the Regulations of continuing education, not related to the pursuit of higher education <...>, as well as the Order No 1V-451 of the Minister of the Interior of 2 July 2010 on the approval of the rules for the organization of trainings for civil servants. <...> The administration of Kaunas City Municipality paid the University for the training services rendered. All persons, who have completed their trainings successfully, have been awarded certificates.

Regarding your questions in relation to doctoral studies, we would like to note that the Municipal Training Centre has not implemented nor implements the doctoral programs. <...> “

Paragraph 3 of the Statute of the Municipal Training Centre of the Faculty of Social Sciences of the KTU (hereinafter - the Statute) approved by Order No A-274 of the rector of the KTU on 2 May 2006 states that “<...> At the end of the project, the Centre shall act as a unit supplementing the academic and research activities of the Faculty of Social Sciences with the activities of continuing education that is not related to the pursuit of higher education.” The right of the Centre enshrined in sub-clause 12.1 of the Statute establishes as follows: “In accordance with the procedure established at the University, to provide the training, information, organization of conferences, research, consulting services, publish publications, lease the property and/or otherwise develop the activities provided for in this Statute that is not in conflict with the laws of the Republic of Lithuania as well as the statutes of the University;”. Sub-clause 12.6 of the Statute establishes the right of the Centre “to co-operate with other University units and employees in implementing the Centre’s objectives;” (underlined by us).

The subject of the service contract concluded between the Kaunas City Municipality and the Public Institution Kaunas University of Technology on 30 July 2012 is “the services related to the implementation of strategic goals in the field of training related to the improvement of qualification of public servants and employees of Kaunas city municipality politicians, municipal institutions and institutions”. Sub-clause 3.6 of the contract stipulates that “Together with the final deed of acceptance and transfer of services and the final invoice, the Service Provider shall submit the documents proving the results - all copies of the training certificates/academic certifications of the target group persons who have completed the trainings successfully”. (Underlined by us)

The Controller, In order to clarify the circumstances related to the number of persons registered for the trainings at the Municipality Training Centre, the completion of trainings and the issuance of the documents confirming the completion of trainings, the Ombudsman applied to the Director of the Municipal Education Centre Jolanta Vaičiūnienė by the letter No S-58 of 3 February 2017 “On submission of additional information”, requesting to submit:

“1) a copy of certificate forms of the register (registers) issued based on the service contract No SR-0573 of 30 July 2012 concluded between the Kaunas city municipality and Kaunas University of Technology approved by the rector’s signature, as specified in Sub-clause 22.1 of the Regulations of Continuing Non-Higher Education;

2) the number of listeners registered pursuant to the service contract No SR-0573 of 30 July 2012 between the Kaunas City Municipality and the Kaunas University of Technology”.

By the letter No DV19-F-12-15 “On submission of additional information”, Jolanta Vaičiūnienė, Director of the Municipal Training Centre provided the following information:

“<...> we would like to note that, according to the public service contract No SR-0573/F590323 concluded between the University and the Administration of Kaunas City Municipality on 30 July 2012, the Municipal Training Centre provided trainings for 106 people.

<...> based on sub-clause 7 of Order No A-600 of 5 November 2008 on partial amendment to the Order No 244 of the Rector on the regulations of continuing education, not related to the pursuit of higher education of 11 April 2006, “the issuance of certificates must be registered in the electronic database and in the registries of the units organizing the courses. After the issuance of certificates, the list of listeners must be printed and pinned up into the register of certificates issued by the units organizing courses”. We provide the register registering the training program certificates of the Municipality Training Centre, which states that according to the “Economics Program”, 16 certificates have been issued, and 90 certificates have been issued according to the “Program of Regional Development of Public Administration”.

Taking into account the foregoing, as well as all circumstances indicated and submitted to the Office and evaluated by the Ombudsman, there are no grounds for stating that the Municipal Training Centre “has lumped the refresher trainings together with the studies providing diploma”.

V. On the heads of the KTU academic units and the position of executive director

The Ombudsman applied to KTU by letter No S-443 of 5 December 2016, requesting, inter alia:

“<...> to submit the job descriptions for the Executive Director of Kaunas University of Technology, Director of the European Institute, Director of the Committee for Sociology and Social Policy Study Program, the head of the Communication Institute of Kaunas University of Technology and the head of the School of Leaders of Kaunas University of Technology. <...>“.

By the letter No DV2-89 dated 29 December 2016, KTU noted, inter alia, “<...> that there is no Communication Institute at the University, and therefore there is no job description for the head of such institute. Secondly, the position of executive director is non-academic, so it is unclear what competence do you have to examine the job descriptions of non-academic staff when your direct activity should be related to the investigation of violations of academic ethics and procedures? Third, please explain why you need these documents - i.e. what kind of investigation of violation of academic principle or academic procedure these job descriptions are related to?”

Taking into account that KTU did not provide the information requested by the Ombudsman, the Ombudsman was not able to assess the circumstances related to the work activities of the said executive director and heads of KTU units.

In response to the doubts expressed by the KTU regarding the competence of the Ombudsman to examine the job descriptions of non-academic staff, it should be noted that the Ombudsman, among other things, supervises the observance of the principle of academic ethics. Paragraph 2 of Article 4 of the Law on Higher Education and Research establishes the concept of academic ethics - a set of universally recognized values ensuring the transparency of the science and study process, integrity, justice, equality of persons involved in this process, non-discrimination, responsibility, sustainable use of resources, academic freedom, impartiality of the evaluation of scientific and study works, trust, respect and protection of intellectual property. Paragraph 4 of Article 71 of the Law on Higher Education and Research provides for that the staff of higher and research institutions must: 1) observe the Code of Academic Ethics; 2) perform the duties provided for in the statute (articles of association) of their institution and employment contracts; Paragraph 4 of Article 17 of the Law on

Higher Education and Research: Personnel of higher and research institutions - teachers, researchers, other researchers, administration and other employees of higher and research institutions; sub-clause 5 of paragraph 12 of the Statute establishes one of the tasks of the Ombudsman is “supervising and controlling the fulfilment of the provisions of international treaties of the Republic of Lithuania, legislation of the European Union, laws of the Republic of Lithuania and other legislation regulating academic ethics and procedures”. (Underlined by us).

It should be noted that the Ombudsman’s requests to submit the information necessary for the investigation were addressed to the rector of Kaunas University of Technology and the Kaunas University of Technology, but the corresponding letters addressed to the Ombudsman were signed by the Director of Human Resources of the KTU, although the documents substantiating his powers (submit the position of the Rector or the University) to the Ombudsman were not specified.

In response to the repeated desire of the KTU staff to control the implementation of the powers of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania, to establish the limits of the Ombudsman’s competence, to assess the reasonableness of the Ombudsman’s request to submit the information and failure to provide part of the information requested by the Ombudsman necessary for the conduct of the investigation, notes that sub-clauses 1 and 2 of paragraph 14 of the Statute of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania 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“ accordingly stipulate the right of the Ombudsman “to receive all information necessary to perform the functions from institutions, companies, organizations and members of academic community free of charge”; “to receive information, explanations, protocols, materials, data and other documents from natural and legal persons, under procedure set by the law, to get access to the documents comprising state, official or commercial secrets and the documents containing information on personal data protected by the law necessary to fulfil the tasks of the Ombudsman stipulated in the Law on Higher Education and Research and other legislation”. (Underlined by us)

When assessing the submitted legal regulation, it should be concluded that the Ombudsman is granted the right to decide what information, data and to what extent are necessary for the statement of violations of academic ethics and/or procedure and for the implementation of other tasks and fulfilment of functions.

In accordance with the above-mentioned provisions regarding the receipt of information, the Ombudsman only requests the information related to the complaint or investigation, without the obligation to prove the legitimacy of the amount and scope of necessary information.

The doubt of the KTU regarding the scope of the information requested by the Ombudsman for the implementation of the Ombudsman’s tasks and the fulfilment of functions thereof, as well as the legitimacy of the Ombudsman’s request to submit the information is judged by the Ombudsman as questioning of the legality of the activities of the Ombudsman and supervision and control of the activities of the Ombudsman carried out by the higher and research institution, although the right to supervise and control how higher and research institutions adhere to the codes of academic ethics and implement the provisions of laws of the Republic of Lithuania and other legal acts regulating the academic ethics and procedures are granted to the Ombudsman.

It should be noted that at the stage of the examination or investigation of a complaint, i.e. until publishing the decision of the Ombudsman, the Ombudsman may not indicate the violation of academic ethics and procedures to the higher and research institution, as the complaint is examined or investigation is conducted precisely for this purpose.

Taking into account the foregoing, it should be stated that such inaction of the rector of KTU P. Baršauskas in terms of providing the information requested by the Ombudsman is in conflict with the principle of academic ethics established in sub-clause 2 of Paragraph 2 of Article 3 of the Law on Higher Education and Research to the extent that it enshrines the transparency of the study process, equality of persons involved in the study process, transparency, integrity and justice as well as the provision in terms of provision of the information in order to clarify the truth.

Having analysed and assessed the information and the supporting documents as well as the legal regulation and in accordance with Paragraph 1 of Part 11 of Article 17 and Paragraph 1 of Part 12 of Article of the Law on Higher Education and Research of the Republic of Lithuania, the Ombudsman:

decided:

To inform Kaunas University of Technology and the Ministry of Education and Science about the violations of the academic ethics and the procedures by associate professor of Kaunas University of technology R. Kuodis and the rector of Kaunas University of technology P. Baršauskas 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.

Ombudsman for Academic Ethics and Procedures

Vigilijus Sadauskas