



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

DECISION REGARDING THE COMPLAINT OF M.Š. OF 15 FEBRUARY 2016

22 March 2016 No SP-7

Vilnius

The Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter – the Ombudsman), <...> examined the complaint of M.Š.¹ (we have impersonalized the data) (hereinafter - applicant) received in the Office of Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - Office of Ombudsman) on 15 February 2015 and the material submitted **determined that:**

The applicant in his complaint stated that “after the arrival to review the assessment of Criminal Law specialist D. on 19 November 2015 at about 1 p.m., trying to go deeper into the paper, I could not find a common language with an assoc. lecturer Dr. Pavelas Kujalis, purportedly all statements were false, purportedly he was simply right, “neuro marketing tactics“, after requesting to review for a satisfactory evaluation, the work, it is stated that it is not possible, as if I could possibly find out the names of other persons (although it is possible to impersonalize). I asked to review the evaluation and give a chance to compare the paper with other papers.

The request was not satisfied. After the appeal against the prorector for studies, it was not satisfied either; after the appeal to the disputes commission, it was not satisfied, too.“ (Language is not corrected).

The applicant requests the Ombudsman:

“To investigate the facts and to find out whether the paper is worth an unsatisfactory evaluation comparing it with other papers; whether the University is not an institution, which tries to cash in from students.“ (Language is not corrected).

<...>

The answer of Mykolas Romeris University was received on 3 March 2016 (letter No 3A (8.9-309)-889 signed by MRU prorector for studies assoc. lecturer dr. G. Viliūnas), which states:

“1. Examining processes of Mykolas Romeris university (hereinafter – MRU) are regulated by the procedures for the evaluation of MRU study results and procedure for the organization of final exams, which are available online at: <...> [links to MRU website are provided]^{2,3}

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

²http://www.mruni.eu/mru_lt_dokumentai/centrai/akademiniu_reikalu_centras/teises_aktai/Vert_tvark_akt_redakc_2014_06_30_1.pdf (viewed on the Internet on 16/03/2016)

³http://www.mruni.eu/mru_lt_dokumentai/centrai/akademiniu_reikalu_centras/teises_aktai/Baig_egzaminu_org_tvarka_2014_11_27.pdf (viewed on the Internet on 16/03/2016)

1. Disputes Commission of Mykolas Romeris University examines the disputes between the students and the administration related to the violation of their rights and legitimate interests based on paragraphs 114 and 115 of Section II of the MRU Statute <...>⁴, approved by the Resolution No XI-2233 of the Seimas of the Republic of Lithuania on 26 September 2012, MRU internal rules of procedures <...>⁵ approved by the Decision No 1UT-15 of the MRU Council and legal acts in force at MRU, including the Procedures for MRU studies <...>⁶ approved by the Resolution No. 1SN-17 of 27 January 2001 of MRU Senate <...>, Procedures for the evaluation of learning outcomes <...>⁷ approved by the Resolution of 16 March 2012 of the Senate of University <...>, Description of the evaluation of learning outcomes <...>⁸ prepared in accordance with the Order No ISAK-2194 of Minister of Education and Science of the Republic of Lithuania of 24 July 2008 “On the approval of the evaluation system of learning outcomes“ (Official Gazette, 2008, No 86-3437) and the recommendations of the Ministry of Education and Science of the Republic of Lithuania for the improvement of the evaluation of learning outcomes, MRU Regulation of Appeals <...>⁹ approved by the Resolution No 1SN-7 of 15 October 2013 of the MRU Senate (as amended on 10 November 2014, No 1SN-17) and other legal acts. <...>

2.1. The Disputes Commission (hereinafter – the Commission) examined the request No 4A-319 of 7 January 2016 of the student [the applicant] on 15 January 2016. [The applicant] requested to resolve so that his „evaluation of special part of criminal law“ would be revised, “an opportunity to compare his paper with other papers would be given“ and to dispel any doubts “for sabotage and subversive activity“.

2.2. Five out of six members of the Commission attended the Commission meeting.

2.3. After examining the documents (the Request of the Applicant submitted to the Faculty of Law on 19 November 2015 to review the evaluation of the mentioned examination paper work and to give an opportunity to compare his work with the papers of other students; the Request of the Applicant submitted to MRU prorector for studies on 30 November 2015 “to oblige the vice-dean of Faculty of Law for studies to revise the evaluation and to give an opportunity to compare the paper with other papers and to dispel any doubts for sabotage and subversive activity“; the reply No 3A(11.21-301)-591 of the MRU prorector for studies to the applicant on 18 December 2015) and considering the information and the arguments therein, the Commission spoke as follows:

2.3.1. On the request to review the evaluation of special part of the paper of criminal law:

Paragraph 9 of MRU appeals provisions approved by the Resolution No 1SN-7 of the Senate on 15 October 2013 states that an appeal should be submitted at least within five working days after the evaluation was published. The results of the examination were published on 9 November 2015, and the appeal to review the evaluation was submitted on 27 November 2015. The Commission stated that the student submitted the appeal too late, so the refuse to examine the case was legitimate.

⁴ http://www.mruni.eu/lt/universitetas/apie_mru/dokumentai/statutas/index.php?phrase_id=1189 (viewed on the Internet on 16/03/2016)

⁵ http://www.mruni.eu/mru_lt_dokumentai/centrai/akademiniu_reikalu_centras/teises_aktai/Vidaus_tvarkos_tais_2015_06_16.pdf (viewed on the Internet on 16/03/2016)

⁶ http://www.mruni.eu/mru_lt_dokumentai/centrai/akademiniu_reikalu_centras/teises_aktai/Studiju_tvarka_akt_redakc_2015_10_19.pdf (viewed on the Internet on 16/03/2016)

⁷ See 2

⁸ http://www.mruni.eu/mru_lt_dokumentai/centrai/akademiniu_reikalu_centras/teises_aktai/Vertinimo_lentele.pdf (viewed on the Internet on 16/03/2016)

⁹ http://www.mruni.eu/mru_lt_dokumentai/centrai/akademiniu_reikalu_centras/teises_aktai/Apeliaciju_nuostat_AR_2014_11_10.pdf (viewed on the Internet on 16/03/2016)

2.3.2. On the request to give an opportunity to compare special part of the paper of criminal law with other papers:

Paragraph 10 of MRU appeals provisions approved by the Resolution No 1SN-7 of the Senate on 15 October 2013 states that before submitting the appeal, a student, auditor shall have the right to review his examination, credit paper, which is stored in the department administrating the study subject.

The Commission spoke that the legislation valid in MRU do not provide for the possibility of comparing own examination paper with the papers of other students. Based on the principles of personal data protection, such submission of the papers of other students to third persons would violate the rights of data subject. Evaluating any reporting at MRU, a 10-point scale is being followed approved by the MRU Procedures for the evaluation of learning outcomes (Resolution No 1SN-30 of the MRU Senate of 16 March 2012), regardless of the evaluations of other students in the group.

The Commission stated that the lecturer reasonably refused to give a student [the applicant] the papers of other students.

2.3.3. On dispelling the doubts for the sabotage, subversive activity:

Considering the fact that the Commission found no violations in the above-mentioned adopted decisions, it was stated that there is no sabotage or subversion activity against the student.

<...>

2.4. Decision of the Commission. RESOLUTION: To dismiss [The applicant's] Request <...> as unjustified.

<...>

1. The Faculty of Law received student's [applicant's] request on 19 November 2015 to revise the evaluation of the criminal law (special part) examination. This request was not met because according to paragraph 9 of MRU appeals regulations approved by the Senate on 15 October 2013 <...>¹⁰, the appeal must be submitted at least five working days after the announcement of the evaluation. Announcement day is not included in the term. The result of student's [applicant's] paper of criminal law (special part) was published in the information system "Studies" on 9 November 2015. The student [applicant] could submit his appeal on the evaluation of the examination on 16 November 2015 at the latest. The request was submitted after the deadlines. The second reason that allowed not meeting the student's [applicant's] request was the fact that following paragraph 11 of the provisions of the Appeals, unsubstantiated or subjectively justified appeals are not examined. Student did not specify any arguments in his request on the basis of which he would state that evaluating the examination paper, a mistake was possibly made and could reason his statements with arguments. Thus, according to the appeals regulations, the student's [applicant's] request was not met.

2. Appeals regulations and other normative documents of Mykolas Romeris University, regulating the study process at the University, do not provide for the possibilities of updating the renewal period for submission of appeal. The student [applicant] used the right defined in paragraph 29 of the provisions of the Appeals to apply to the Disputes Settlement Commission if he is not satisfied with the response of Rector or his authorized person to the statement or complaint, or did not receive a response within 15 calendar days. <...>

¹⁰ See 9

1. The student [applicant] of the Faculty of Law took the examinations in the Criminal Law (special part) in November 2015 the evaluation of which was entered to the information system “Studies” on 9 November. Student’s evaluation for the exam is 4. Student’s knowledge was evaluated based on the procedures for the evaluation of learning outcomes of Mykolas Romeris University <...>¹¹ and the description of the subject <...> which defines the knowledge evaluation criteria and evaluation methodology. The knowledge and abilities of the student [the applicant] to analyse practical situations demonstrated in the examination did not meet the minimum requirements of criminal law (special part).” (Language is not corrected; the information provided in angle brackets is ours).

Moreover, on 10 March 2016, the Office of the Ombudsman got an e-mail with an explanation of the lecturer of the MRU Institute of Criminal Law and Procedure Dr. P. Kujalis. The lecturer indicated that “the examination paper of the student [applicant] of special part of criminal law was evaluated based on “Procedures for the evaluation of learning outcomes at Mykolas Romeris University” approved by the Decision No ISN-30 of MRU Senate on 16 March 2012. <...>¹² The evaluation of the student’s [applicant’s] examination paper of special part of criminal law consisted of the evaluation for the organisation of theoretical knowledge and their understanding level and the evaluation of the ability to use the acquired knowledge during the analysis of practical situations.” Lecturer P. Kujalis also stated that “the knowledge showed by the student [applicant] was insufficient. Understanding, interpretation and evaluation of the whole of practical situation and its individual components considered by the student, the ability to analyse the task-related theoretical provisions, to think logically and critically did not meet the minimum requirements. Moreover, the ability of the student to use acquired knowledge during the analysis of practical situation (task), to give arguments based on own conclusions, to highlight and critically evaluate the information important and necessary for resolution of practical situation did meet the minimum requirements as well.” (The information provided in angle brackets is ours).

Annex 1 to the MRU procedures for the evaluation of learning outcomes approved by the Decision No 1SN-30 of the Senate on 16 March 2012 “Description of recommended expanded system for the evaluation of learning outcomes” establishes the passing steps (“Passed”, “Failed”) and marks (from 1 to 10) corresponding to the description of knowledge and understanding, and a detailed description of skills. The mark matching the minimum requirements for meeting the knowledge and abilities is 5 (“Weak”):

1. Detailed description of knowledge and understanding: “Applies the knowledge to solve unsophisticated practical problems. Simple citation of mastered concepts, text narration. The answer is focused on one aspect. Minimum preparation for further studies”.

2. A detailed description of abilities: “Minimum sufficient ability to solve problems based on the examples. Ability to act by analogy. Satisfactory resolution and presentation skills”.

The aforesaid description indicates that passing step “Failed” corresponds to marks from 1 to 4 (“Unsatisfactory”), “The knowledge does not meet the minimum requirements” and “The abilities do not meet the minimum requirements.”

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

¹¹ See 2

¹² See 2

1. MRU evaluated the examination paper of special part of criminal law of the applicant in accordance with the evaluation procedures and criteria established in MRU legislation;

2. MRU reasonably refused to examine the applicant's appeal on the unsatisfactory evaluation of the paper in accordance with the MRU Appeals regulations.

It should be noted that the legislation do not authorize the Ombudsman to evaluate the legitimacy of the size of examination points (marks).

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

To recognize the complaint of the applicant as unjustified.
