



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

## DECISION

### REGARDING THE VIOLATION OF ACADEMIC ETHICS BY ALEKSANDRAS ZOTOVAS, LECTURER DOC. LAURA AIDUKIENĖ, LECTURER MANGIRDAS MORKŪNAS AND PROF. DR GEDIMINAS ČERNIAUSKAS

27 March 2017 No SP-8  
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 Aleksandras Zotovas (hereinafter – the applicant) received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 22 November 2016 regarding possible violations of academic ethics and procedures at the Faculty of Economics and Business of Mykolas Romeris University and after conducting the investigation,

#### **determined:**

The applicant applied to the Ombudsman indicating that the “content of official report written” by the lecturer of the Mykolas Romeris University (hereinafter - MRU) Mangirdas Morkūnas “<...> is spurious. And my studies are suspended because of this false report. In addition, relating to the examinations of “Macroeconomics” and “Business Economics” that I have passed, but they were not recognized <...>.”<sup>1</sup>

In his complaint, the applicant stated: “The content of official report written by the lecturer Mangirdas Morkūnas <...> is spurious, namely: “was using a mobile phone”, yes, but is was allowed to use it to calculate (using a calculator); “A picture of the task <...> solution was photographed therein”, how the teacher can allege if he has not seen the contents of my phone, he saw only that I switched the calculator because I did not hide it. The teacher Laura Aidukienė said that we would be able to use Excel, so I switched the calculator in presence of my teacher Mangirdas Morkūnas. <...> I was allowed to take this exam again (because it was preliminary one), on Monday [16 November

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<sup>1</sup> The language of the applicant here and further in the text is unedited.

2016].<sup>2</sup> <...> the lecturer Laura Aidukienė wrote that I arrived at 3.20 pm <...>, she arrived at 4.20 m, <...> I did all the tasks in the presence of the teacher and got the grade 0 (debt). <...> I was taking the examination of macroeconomics [on 17 September 2016 having agreed with the teacher [prof. Dr Gediminas Černiauskas] <...>; I passed it and agreed that the teacher would write the grade during the session, and the cumulative score for which I received 10 way back in the spring, was also not written in the grade book. Because [the methodologist G.R.] stated that it would not be recognized if I was removed due to a false official [report] of the lecturer Mangirdas Morkūnas, because, purportedly, I did not officially register for it. But I also did not register for the “Business Economics” examination, wherefore resulted in writing the official report. How to understand it? One can be taken in this way and the other cannot? How can double standards be applied.” (Underlined by us).

The circumstances stated in the complaint are substantiated by the applicant by enclosing the official report of lecturer Mangirdas Morkūnas of 7 November 2016 and correspondence with the lecturer doc. Laura Aidukienė in social Facebook account on 4-5 November 2016.

The applicant requests: “1) to establish that the charges of Mangirdas Morkūnas are unfounded; 2) in connection with this, the MRU must extend my studies; 3) I also recommend to determine that the MRU was obliged to recognize and write the grades for two passed examinations of “Macroeconomics” and “Business Economics”.

The Ombudsman applied to the MRU on 28 November 2016 requesting “to indicate and submit procedures for the use of mobile phones during the reporting; to specify and submit the procedure for the organization/execution of advance reporting”. A reminder to provide the requested information was sent on 5 January 2017. Requested information was received on 6 January 2017 from which it was established that the procedures for reporting, as well as the procedure for organizing/execution of preliminary examinations at the MRU is regulated by the Procedure for the Assessment of Mykolas Romeris University Learning Outcomes approved by the Resolution No 1SN-30 of MRU Senate on 16 March 2012 (hereinafter – the Assessment Procedure) and the MRU Studies Procedure approved by Resolution No 1SN-17 of the MRU Senate on 27 January 2011 (hereinafter - Study Procedure).

***On the registration in the MRU Information System “Studies” (hereinafter - the “IS Studies”)***

Paragraph 23 of the Assessment Procedure stipulates that “A timetable for the re-sit exams for students with academic debts shall be drawn up at University faculties. A student wishing to re-sit an exam must register in the information system “Studies”.

At the meeting at the Office on 12 December 2016, the lecturer of MRU Institute of Economics doct. Laura Aidukienė confirmed that she taught the subject “Business Economics” and was the main teacher of the subject. Laura Aidukienė, after having inquired whether students were obliged to register or only registered could be the examined, stated that “there are exceptional cases and, in particular, with “extended” students due to their arrival, departure, etc. <...> is a session, this means that they were learning a half year ago, a half year later, they came only for one day for three seminars, and this is Thursday, and [the applicant] declares that Saturday is the last day when he can take an [examination] because on Monday [he] will no longer be in Lithuania”.<sup>3</sup>

<sup>2</sup> The information given in angle brackets here and further in the text is ours.

<sup>3</sup> The language of doc. lecturer Laura Aidukienė here and further in the text is unedited.

The lecturer Laura Aidukienė stated that “two students requested a preliminary examination two days before [the main exam]” and stated, “since we have a system when we have to register in the system within 48 hours and all similar things, I had already registered the examination. But it was related to [another student], but more students can join there <...>. [Another student] could not register in any way, but it is likely that perhaps this time span was too small for the system to record”.

When inquiring in the Office about the procedure for taking examinations whether there was a sheet for manual registration in cases when it was not possible to register electronically, the lecturer Laura Aidukienė indicated that it was no such method for registration and confirmed that on Friday, i.e. one day before taking the examination, no one was able to register.

*In the view of the foregoing, it should be stated that the obligation to register with IS “Studies” is established in MRU legal acts only in relation to retaking academic debts. In the Evaluation Procedure and other legislation, the obligation for students who wish to take examinations (including preliminary examinations) to register in the IS “System” is not established.*

#### *On the appointment to examine*

Paragraph 18 of the Assessment Procedure stipulates that “Teachers shall examine only in the groups attributed to them. In exceptional cases (teacher’s illness, business trip or any other important cause) the head of the department shall appoint another teacher to examine students”. Sub-paragraph 6.3 of the MRU Code of Academic Ethics (hereinafter -s the Code) stipulates that “the members of the University community shall adhere to the principles of equality, justice, equal opportunities, avoid and shall not tolerate any form of discrimination, personality, harassment, abuse of power, nepotism”. (underlined by us).

When asked if lecturer Mangirdas Morkūnas was appointed by the head of the department to examine the applicant in a preliminary exam, the lecturer Laura Aidukienė stated: “No, we do not associate with the letters this much. <...> in most cases, there is an oral agreement, because it is even a short time to resolve this kind of issue. <...> I called my colleague [the lecturer Mangirdas Morkūnas], I asked him if he could examine on Saturday because I needed to come to [Vilnius] to lectures every time because I live in Kaunas. He agreed, because at that time he was just at the University <...>. He was also with students. I informed which auditorium and at what time. Here was the last lecture after a long time and it was the only day. On Saturday, they came to take exam to my colleague [lecturer Mangirdas Morkūnas]”. (Underlined by us).

During the meeting in the Office on 30 November 2016, the lecturer of MRU Institute of Economics Mangirdas Morkūnas, when asked if he “conducted the exam”, stated that “I only accepted, did not conduct. <...> the internal rules of procedure of our university does not forbid one teacher to accept ... I simply could not correct [the written work of the applicant]. Well, because I did not lecture, I do not know what the course was recited. I just can keep order and accept the exam. <...> the regulations says we can do this.”<sup>4</sup> (underlined by us).

During the meeting at the Office, the said procedure was not submitted to the Ombudsman.

After specifying whether this was a “single case”, or whether enshrined by the internal legislation of MRU, the lecturer Mangirdas Morkūnas indicated that it was a “single case” and clarified: “you see, the question is here now as follows. If you are asking whether I accept the exam

<sup>4</sup> The language of the lecturer Mangirdas Morkūnas here and further in the text is unedited.

legally? If yes - legally. I cannot comment on the internal protocols, regulations, or some kind of procedures provided for in the Statute of the University, as I am not authorized.”

***In the light of foregoing, it should be stated that the lecturer Laura Aidukienė:***

***1) having orally agreed with the lecturer Mangirdas Morkūnas regarding the preliminary examination of the applicant and not observing the obligation to examine the students of the group attributed to her, violated paragraph 18 of the Assessment Procedure, which stipulates that “teachers shall examine only in the groups attributed to them”;***

***2) having not followed the procedure provided for in paragraph 18 of the Assessment Procedure, provided exceptional conditions for the applicant in respect of other students, violated sub-paragraph 6.3 of the Code, which stipulates that “members of the University community shall adhere to the principles of equality, justice, equal opportunities, avoid and shall not tolerate any form of discrimination”.***

***With the view of foregoing, it should be stated that the lecturer Mangirdas Morkūnas, having not provided a document confirming his appointment to examine the applicant, i.e. without confirming that he was appointed by the head of the department to examine the students of the group not attributed to him, as well as the applicant, violated paragraph 18 of the Assessment Procedure, that “teachers shall examine only in the groups attributed to them”.***

#### ***On the execution of preliminary examination***

Paragraph 13 of the Assessment procedure states that “in case of serious causes and subject to the permit of the dean, students will be able to pass examinations also prior to the session”; Paragraph 18 – “Teachers shall examine only in the groups attributed to them. In exceptional cases (teacher’s illness, business trip or any other important cause) the head of the department shall appoint another teacher to examine students”; sub-paragraph 25.1 stipulates that taking credits and examinations shall be subject to the prohibition “to have mobile or other communication tools, except other information media set out in the description of the study programme”; Paragraph 26 – “In cases of suspicions by subject teachers or examiners that a student uses illegal sources or tools, a student shall be obliged to help a subject teacher (examiner) disperse suspicions. Disagreement of the student to cooperate shall be treated as a proof of his dishonesty. In such a case a statement „Not assessed“ shall be entered in the sheet”; Paragraph 27 – “If suspicions of the subject teacher or examiner regarding dishonesty prove to be true, the subject teacher (examiner or chairman of the examinations commission) shall suspend the examination of the student. If possible, illegally used measures or tools shall be seized. The subject teacher (examiner or chairman of the examinations commission) shall notify in official note the faculty of the student on the case of dishonesty and shall provide a student’s work and illegally used measures or sources (if any). The dean of the faculty shall initiate an investigation in order to confirm or deny an alleged breach of academic discipline“. Paragraph 94 of Study procedure establishes that “The examinations included in the study plans take place in the premises of the University during the sessions. In separate cases, knowledge checks can be conducted after an academic subject or a module is delivered. Subject to permission of the Faculty Dean/Institute Director, the assessment of achievements may take place before the end of a semester. <...>. Sub-paragraph 5.2 of the Code stipulates that “any form of academic misconduct (<...> cheating, <...> other unfair behaviour) is not tolerated at the University”; sub-paragraph 6.3. - “the members of the University community shall adhere to the principles of equality, justice, equal opportunities, avoid

and shall not tolerate any form of discrimination, personality, harassment, abuse of power, nepotism”. (Underlined by us).

During the meeting in the Office, the lecturer Laura Aidukienė was asked to provide information that could confirm her statements related to informing students about the preliminary examination and submit supporting documents. The lecturer Laura Aidukienė presented the correspondence with the applicant on 16 December 2016. The correspondence shows that the applicant negotiated with the lecturer Laura Aidukienė on 11-30 August 2016 on taking preliminary examination, but there was no agreement on specific time for taking a preliminary examination. The correspondence of 4 November 2016 of the applicant with the lecturer Laura Aidukienė in the social Facebook account confirms that the applicant planned to take the examination not on officially appointed examination day - on 7 November 2016, but earlier - on 5 November 2016.

As previously mentioned, the lecturer Laura Aidukienė agreed with the lecturer Mangirdas Morkūnas on the preliminary examination for the applicant on 5 November 2017; consequently, the Office sent a letter to the lecturer Mangirdas Morkūnas on 22 December 2016 requesting “to indicate and submit a list of persons who participated in the examination on the subject “Business Economics” on 5 November 2016 and the documents confirming the participation of students in the said examination (e.g. examination sheet). To indicate which the persons who participated in the examination were not members of the group attributed to you. If, based on an exceptional case, you were assigned to examine the persons of the group not attributed to you, indicate the grounds for such appointment and provide a document confirming your appointment to examine these persons”.

In response to the questions submitted by the Ombudsman, the lecturer Mangirdas Morkūnas indicated in his e-mail of 10 January 2017 that “on November 5, I did not examine any students. At the time you specified, I helped to secure the order during the examination. I cannot submit the documents you are requesting (examination sheets), as I indicated at the [meeting in the Office], I handed them over to the lecturer L. Aidukienė who examined the students” (underlined by us).

During the meeting with the lecturer at Laura Aidukienė at the Office, being asked if the examination sheet was being filled in during the preliminary examination, she replied that “it was”, but she did not see the preliminary examination sheet. When being asked more precisely if an exam sheet really was, Laura Aidukienė pointed out that “in fact, I do not interfere in the procedure, which was initiated by [the lecturer Mangirdas Morkūnas] <...>”. (Underlined by us).

To the request of the Ombudsman of 22 December 2016 “to explain why the official letter was not prepared on the examination day, i.e. on 5 November, but on 7 November 2016, and to submit the documents confirming the specified circumstances”, the lecturer Mangirdas Morkūnas replied: “5 November [2016] was Saturday. Day off for the administration staff. The official report should be submitted to the head of the faculty - the dean. First working day of the administration after 5 November is 7 November – Monday. The official report was submitted on this day”.

The official letter of the lecturer Mangirdas Morkūnas of 7 November 2016 [regarding the examination held on 5 November 2016] states: “<...> [the applicant] <...> used a mobile phone. It contained a photograph of the solution of the task similar to that given during the examination. The student was asked to stay after the examination, to show what was in the phone, and provide explanations. The student responded negatively to all these requests. <...> He took photograph of the examination tasks with his phone”.

Lecturer Laura Aidukienė, being inquired about the use of mobile phones during the credit/examination, stated that “this is accentuated several times because my subject is related to the

tasks, and I teach them to use the Excel program, but there are those who use the calculator in their telephone. I say right away that the phones, according to the study procedure, should be put aside, they must not be even near them. <...> we learn, but I say straight away that it is the same thing as using a calculator. <...> in case of a computer auditorium, Excel could be used for calculation, but they are not so advanced, and only half of them are able to use Excel. Namely, this is the most acceptable way to use a calculator”.

The lecturer Mangirdas Morkūnas, answering the question of what the applicant could photograph during the examination, indicated that “to photograph what he could ... I do not know. He had not even to take a picture at all. Period. What he photographed - are speculations, because I did not have the opportunity to check, because when I asked to give me a mobile phone, the student pulled it aside and put it in his pocket. I did not jump at him to take it from him, because it would have been an attack”. Answering the question of whether he asked the student to stay after the examination, Mangirdas Morkūnas stated that “yes, since this case happened, incidentally, in the presence of other students. <...> I asked the student to stay after the examination so that he could explain what he was doing with his mobile phone. Why it was necessary for him, etc. He has refused to do so, and again - in the presence of other students”.

When being asked to provide explanations regarding the contradictions contained in the above-mentioned official letter, the lecturer Mangirdas Morkūnas stated that “here, hence, you may not have fully gone deeper in what was written in the official [letter], or additional explanations are needed. In this case, I will provide them. First, the tasks that had to be worked out were put on the board. In the slides below, it was indicated how many minutes they have to work them out. <...> At the bottom, say, a question, yes/no, a/b, yes/no, you have five minutes. Then, after those five minutes, the slide is changed, then other questions, and you maybe have fifteen minutes. I, you see, do not remember, but as an example. And then, the third slide - a condition of the task. This was the first photo he took. I think, but I do not allege that what was presented on the board was on the slides too. The second thing, then, when he was working out the task, he again pulled out the phone, and in the phone, I think, I saw it, I am almost sure, because, well, it is obvious, there was a task, solution of the task. Analogous to the task shown on the third slide. For in the beginning, it was theoretical questions, then the tasks to be worked out. So, the first thing he did was taking pictures of that task, then pulled out a phone that contained an analogous task. <...> Yes, the figures gross were others, but analogous solution, even with brackets, what and where you have to insert in order to calculate the net in the task, was photographed in his phone. These were two cases when the phone was used”.

To the Ombudsman’s request of 22 December 2016 “to answer, what circumstances regarding the student’s photographing in the mentioned examination were indicated to the lecturers L. Aidukienė <...>. When were the data of your official report submitted to the above-mentioned teacher as well as the progress?”, the lecturer Mangirdas Morkūnas replied: “On November 5, the lecturer L. Aidukienė was informed by telephone that [the applicant] had photographed during the exam using a mobile phone, thus violating sub-paragraph 25.1 of Procedure for Assessment of Mykolas Romeris University Learning Outcomes. Possibly, the photos of examination tasks on the wall with the help of a projector were taken. It was not possible to make sure what was photographed because the student refused to submit a mobile phone, thus violating paragraph 26 of Procedure for Assessment of Mykolas Romeris University Learning Outcomes. To answer when the teacher L. Aidukienė was given the details and progress of the official report, as I mentioned in my explanatory

letter of 30 November, I cannot explain, because I did not participate in the work of the Commission that examined the facts in my report". (Underlined by us).

When, during the meeting in the Office, the lecturer Laura Aidukienė was asked about the incident of 5 November 2017, it was indicated that [the lecturer Mangirdas Morkūnas] called me that very minute. At first, he wrote that there was such a thing and there was a violation. Not even two or three days passed. I was informed the same day. He asked if I could speak, and immediately informed me" and confirmed that she had not seen the applicant's work. According to the lecturer Laura Aidukienė, before the official exam, the lecturer Mangirdas Morkūnas informed her that "he was going to the conversation with the dean. I was already on my way to Vilnius at that time". Relating to the further process, the lecturer Laura Aidukienė points out that "I did not interfere". (Underlined by us).

Attention should be drawn to the fact that the legislation does not regulate the procedure for conducting preliminary examinations at the MRU. Paragraph 13 of the Assessment Procedure states that "In case of serious causes and subject to the permit of the dean, students will be able to pass examinations also prior to the session." Paragraph 94 of the Study Procedure states that "<...> In separate cases, knowledge checks can be conducted after an academic subject or a module is delivered. Subject to permission of the Faculty Dean/Institute Director, the assessment of achievements may take place before the end of a semester". After evaluating the aforementioned legal regulation from a systematic point of view, it should be concluded that, in case under consideration, when the examination was conducted two days before the official examination date, the preliminary examination of 5 November 2016 could only be conducted with the permission of the dean.

The lecturer Mangirdas Morkūnas indicated "I only accepted, did not conduct it (the examination; note is ours). <...> the internal rules of procedure of our university does not forbid one teacher to accept ... I simply could not correct [the written work of the applicant]. Well, because I did not lecture, I do not know what the course was recited. I just can keep order and accept the exam" and "I did not examine any students. At the time you specified, I helped to secure the order during the examination. I cannot submit the requested documents (examination sheets), because, as I indicated [during the meeting in the Office], I handed them over to the teacher L. Aidukienė who examined the students". (underlined by us).

In the case under consideration, the official letter was prepared by the lecturer Mangirdas Morkūnas, although the latter claimed that he did not examine the applicant, but only secured the order during the examination. Paragraph 27 of the Assessment Procedure stipulates that "The subject teacher (examiner or chairman of the examinations commission) shall notify in official note the faculty of the student on the case of dishonesty and shall provide a student's work and illegally used measures or sources (if any) <...>". Attention should be drawn to the fact that the "acceptance" of examinations, "[security of the order]", as pointed out by the lecturer Mangirdas Morkūnas, are not provided for the legislation of the MRU.

***Taking into account the foregoing, it should be stated that the lecturer Mangirdas Morkūnas:***

***1) not complying with the procedure specified in Paragraph 18 of the Assessment Procedure, i.e. examining the group of students not attributed to him, without having the assignment of the head of the department to examine the applicant, created exceptional conditions in respect of other students, violated the part of sub-paragraph 6.3 of the Code, which states that***

*“members of the University community shall adhere to the principles of equality, justice, equal opportunities, avoid and shall not tolerate any forms of discrimination”;*

*2) when examining the applicant not during the session, without permission of the dean, violated paragraph 13 of the Assessment Procedure, which stipulates that “In case of serious causes and subject to the permit of the dean, students will be able to pass examinations also prior to the session” and Paragraph 94 of the Study Procedure, which stipulates that “The examinations included in the study plans take place in the premises of the University during the sessions. In separate cases, knowledge checks can be conducted after an academic subject or a module is delivered. Subject to permission of the Faculty Dean/Institute Director, the assessment of achievements may take place before the end of a semester. <...>”*

*It should be noted that, in this case, the lecturer Mangirdas Morkūnas, not being a teacher of the subject or examiner, not having the permit of the head of the department to examine, submitted the official letter and informed the faculty about the case of dishonesty, although paragraph 27 of the Assessment Procedure states that only “<...>The subject teacher (examiner or chairman of the examinations commission) shall notify in official note the faculty of the student on the case of dishonesty <...>”.*

The lecturer Mangirdas Morkūnas indicated in his official letter that “Aleksandras Zotovas was using a mobile phone”. The applicant stated in the complaint that “[the lecturer Mangirdas Morkūnas] did not see the contents of the phone, [the lecturer Mangirdas Morkūnas] only saw that I switched the calculator because I did not hide this from him”.

In the complaint, the applicant also stated that “when the examination started, I took a photo of [the lecturer Mangirdas Morkūnas] (I sent the photo by e-mail to you (the Ombudsman<sup>5</sup>, our note), but the lecturer thought that I took the photo of “the task” <...> [the lecturer Mangirdas Morkūnas] told me to delete the photo so I did not pass the tasks to my course mates. And told me to continue the examination. There was no conflict here. And this is one more proof that we were not told that the phone could not be used”. (Underlined by us).

In the minutes of the meeting No 10A-EFVFD-5 of 17 November 2016, the MRU Commission for the Determination of Potential Violation found that “the photograph submitted by the applicant was edited, and [the applicant] could not submit the original photograph. The Commission also found that Aleksandras Zotovas lied [to the lecturer Mangirdas Morkūnas] saying that the photo would be immediately deleted when the teacher asked to do that immediately after having noticed that [the applicant] was taking photograph”.

***Taking into account the foregoing, it should be stated that Aleksandras Zotovas:***

***1) having a mobile telephone during the preliminary examination, violated sub-paragraph 25.1 of the Assessment Procedure, which stipulates that when taking credits and examinations it is prohibited “To have mobile or other communication tools, except other information media set out in the description of the study programme”;***

***2) during the preliminary examination, not helping the lecturer Mangirdas Morkūnas to dispel allegations regarding the use of unauthorized sources, violated the part of Paragraph 26 of***

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<sup>5</sup> The photograph was not presented to the Ombudsman.

*the Assessment Procedure, which states that “In cases of suspicions by subject teachers or examiners that a student uses illegal sources or tools, a student shall be obliged to help a subject teacher (examiner) disperse suspicions. <...>”;*

*3) being asked to delete the photo and not having deleted it, behaved dishonestly and violated the part of sub-paragraph 5.2 of the Code, which stipulates that “any unauthorized academic misconduct (<...> cheating, <...> other unfair behaviour) is not tolerated at the University”.*

#### ***On execution of official examination***

Sub-paragraph 4.1 of the Code states that the fundamental value is honesty; Sub-paragraph 5.1 – “Members of the University community shall adhere to academic integrity and actively disseminate its principles in the activity of studies, <...>, provision of services”; Sub-paragraph 5.2 – “Any unauthorized academic misconduct in the University (data falsification, swindle, bias, cheating, <...> and other unfair behaviour)”; Sub-paragraph 5.3 – “Members of the University community shall act in good faith and lawfully when performing activities both inside and outside the University, shall take decisions in accordance with laws and other legal acts”; Sub-paragraph 6.3. – “Members of the University community shall adhere to the principles of equality, justice, equal opportunities, avoid and shall not tolerate any form of discrimination, personality, harassment, abuse of power, nepotism”. (Underlined by us).

During the meeting in the Office, being asked on what grounds the applicant was allowed to take the examination for the second time, the lecturer Laura Aidukienė stated: “<...> on the grounds that the procedure has already been started. I had to because I have to enter into the system. <...> since the violation is recorded. [The applicant] came, wrote. That is, but I cannot enter the assessment into the system. <...> He took a preliminary examination on Saturday”; “I changed the tasks and [the applicant] took the examination on Monday.

[The applicant] wrote [the examination], I left it as “Not assessed”; “[I did not know] the outcome of the procedure [initiated based on the official letter of the lecturer Mangirdas Morkūnas]. <...> because the student disputed that he did not commit any violation. He, you know, negated”; the applicant was allowed to take the examination for the second time since “all this is only formalized on Monday, <...> “no, there was no re-sitting”; “I did not know anything on Monday. Imagine that I knew that there was such a violation, but that procedure would either go or how, since [the lecturer Mangirdas Morkūnas] still was going to the dean on Monday to talk about how to do this procedure, this is not quite an ordinary event. <...> I allowed to take it on Monday, because the situation was not clear to me. I know this is a violation <...>”.

The correspondence between the lecturer Laura Aidukienė and the applicant in social Facebook account enclosed to the complaint shows that the lecturer Laura Aidukienė writes: “You will take the exam personally. You are to arrive at 3.20 pm <...>”. The lecturer Laura Aidukienė, as indicated by the applicant, arrived at 4.20 pm.

At the meeting in the Office, it was asked why the applicant was indicated other than the intended official time of examination, i.e. 4.20 pm, the lecturer Laura Aidukienė replied to the above question “[the applicant] argued all the time that he could not take it anyhow during the official time of examination. <...> he arrived at the official time of the examination and took it with everyone at 4.20 pm. <...> together with the whole group. <...> covering myself that it is a conflicting person, I made a decision to let him take the examination with all students, under equal terms, in the manner

all students do, just like all his groups, and without any other distinction. <...> I arrived earlier but because he really ... I was blocked myself by all possible means because I had an offensive and I realized that this is a person with whom I have very, how to say, as much as possible ... If this time is set, it means that it is the time namely, and that's all. Let him take the examination with the whole group as befits". (Underlined by us).

After clarifying whether the applicant performed the exam task, the lecturer Laura Aidukienė confirmed that the applicant "performed the task"; however, although the task was performed, she entered the assessment of lecturer Mangirdas Morkūnas – "Not assessed" - and indicated that "since the violation was officially recorded and the whole procedure started within a few days. <...> If it was a working day, a working day, well, let us say, he was taking on Monday, my official examination - on Wednesday, I would have known how to behave. It all happened on Saturday, my examination - on Monday. There is even no physical possibility to find out exactly whether I can accept or cannot accept that student. How do I behave? <...> so be it, I made a mistake that I allowed him to take the examination. I acknowledge that mistake". (Underlined us).

After inquiring about entering the assessment into the IS "System", the lecturer Laura Aidukienė said that the assessment was entered "within five days" and confirmed that the data on the preliminary examination of the applicant had not been entered in the IS "System". Also added that the lecturer Mangirdas Morkūnas could not make any records and could not enter the examination results; the result could have been entered only after taking the first official examination.

After analysing and evaluating the circumstances – of the complaint, it was established that the lecturer Laura Aidukienė knew that during the preliminary examination, the applicant used a mobile phone and that "[the lecturer Mangirdas Morkūnas] recorded this as the violation", but allowed the applicant to take the examination of the same subject for the second time.

***Taking into account the foregoing, it should be stated that the lecturer Laura Aidukienė:***

***1) failing to take steps to clarify all the circumstances related to the suspicion of academic dishonesty of the applicant, knowing that during the official examination the task performed by the applicant will not be assessed, allowing the applicant to take the examination of the same subject for the second time, thus acting unfairly in respect of the applicant, violated Sub-paragraph 5.2 of the Code stipulating that "any form of academic misconduct (<...> cheating, <...> other unfair behaviour) is tolerated in the University";***

***2) allowing the applicant to take the examination of the same subject for the second time, created more favourable conditions for the applicant in respect of other students taking the exam for the first time, thus violated Sub-paragraph 6.3 of the Code, which states that "members of the University community shall adhere to the principles of equality, justice, equal opportunities, avoid and shall not tolerate any form of discrimination".***

***On the examination of the subject "Macroeconomics"***

Paragraph 13 of the Assessment Procedure stipulates that "In case of serious causes and subject to the permit of the dean, students will be able to pass examinations also prior to the session"; paragraph 22 stipulates that "having assessed a student's learning outcomes, a teacher must complete an electronic record sheet. Assessment results must be submitted to the system within 5 working days". (Underlined by us).

As already mentioned, the obligation for students wishing to take examinations (as well as preliminary examinations) to register with the IS “System” as per the Assessment Procedure and other legal acts has not been established.

In addition, the applicant stated in his complaint that, having agreed with the teacher in advance, he took the examination on the subject “Macroeconomics” and “[agreed] that the teacher would record the grade during the session. <...> [methodologist G.R.] stated that [the assessment of the study subject “Macroeconomics”] would not be credited if [the applicant] was removed because of spurious official letter of [the lecturer] Mangirdas Morkūnas because purportedly I did not officially register for it”. (Underlined by us)

The Ombudsman applied to prof. Dr Gediminas Černiauskas on 15 March 2017 requesting to answer whether the applicant “took a preliminary examination on the study subject “Macroeconomics”? If yes, to submit the documents confirming the date of taking the examination and the assessment, and to indicate if the test result was entered in the record sheet. If the result was not recorded, indicate the reason for not recording the result”.

Prof. Dr Gediminas Černiauskas, in response to the request of the Ombudsman, stated by the letter No S-117 of 21 March 2017 as follows: “1. In 2016 I conducted lectures on the “Macroeconomics”. 2. [The applicant] addressed to me on 1 June 2016 applying for the right to take an examination <...>. As you can see from the correspondence, it was agreed that the examination would take place on 15 September 2016. As far as I remember, [the applicant’s] answers to examination questions were worthy of a positive grade; during the meeting, there was no possibility to record the results of the assessment in the record sheet <...> because the sheet was not open; <...>”. (Underlined by us).

***Taking into account the foregoing, it should be stated that prof. Dr Gediminas Černiauskas:***

***1) during the examination of the applicant, without the dean’s permission, violated paragraph 13 of the Assessment Procedure, which stipulates: “In case of serious causes and subject to the permit of the dean, students will be able to pass examinations also prior to the session”;***

***2) allowing the applicant to take a preliminary examination without complying with the requirements of the Assessment Procedure, i.e. examined the applicant without the dean’s permission, violated Sub-paragraph 6.3 of the Code, which stipulates that “members of the University community shall adhere to the principles of equality, justice, equal opportunities, avoid and shall not of any form of discrimination”.***

#### ***On knowledge checks that are taken in beforehand manner***

Paragraph 22 of the Assessment Procedure stipulates that “Having assessed a student’s learning outcomes, a teacher must complete an electronic record sheet. Assessment results must be submitted to the system within 5 working days”. Paragraph 13 of the Assessment Procedure states that “In case of serious causes and subject to the permit of the dean, students will be able to pass examinations also prior to the session”. Paragraph 94 of the Study Procedure states that “<...>In separate cases, knowledge checks can be conducted after an academic subject or a module is delivered. Subject to permission of the Faculty Dean/Institute Director, the assessment of achievements may take place before the end of a semester. <...>” (Underlined by us).

As already indicated above, after analysing the material provided to the Ombudsman, it was determined that the obligation for those wishing to take examinations (as well as preliminary examinations) to register with the IS “System” has not been established. (See page 3).

In the case under consideration, prof. Dr Gedminas Černiauskas examined the applicant, “the answers to the exam questions were worthy of a positive grade”, but the assessments of the study subject “Macroeconomics” was not submitted to the IS “System” because “during the meeting, there was no possibility to record the results of the assessment in the record sheet <...> because the sheet was not open”.

The lecturer Mangirdas Morkūnas examined the applicant following an oral agreement with the lecturer Laura Aidukienė, but could not submit the assessment for the study subject “Business Economics” into the IS “System” because, as the lecturer Laura Aidukienė pointed out at the meeting in the Office, “perhaps this time span was too small for the system to record it”.

***In view of the foregoing, it should be stated that the practice of knowledge checks of MRU being taken in beforehand manner is inconsistent, therefore flawed, and the regulation is insufficient and not ensuring the equal opportunities and academic ethics.***

It should be noted that the Ombudsman does not examine issues that are not within his competence.

***Taking into account the fact that paragraph 1 of Article 17 of the wording of the Law on Higher Education and Research of the Republic of Lithuania, which entered into force from 1 January 2017, stipulates that the Ombudsman examines complaints regarding possible violations of academic ethics and procedures enshrined in the codes of academic ethics of higher and research institutions and, in this case, the violations established not only in the Code of Academic Ethics of MRU, but in the internal legislation of the MRU, were determined and the applicant, having a legitimate expectation applied to the Ombudsman before the entry into force of the said wording of the law, having assessed the documents and legal regulation submitted by the applicant and the MRU and legal regulation and in accordance with Paragraph 1 of Article 17 and Paragraph 1 of Part 11 of Article 17 of the Law on Science and Studies of the Republic of Lithuania, the Ombudsman***

**decided:**

To inform the applicant, Mykolas Romeris University and the Ministry of Education and Science about the violations of academic ethics and procedures by the lecturer doc. Laura Aidukienė, prof. Dr Gedminas Černiauskas, lecturer Mangirdas Morkūnas and Aleksandras Zotovas.

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