



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

## DECISION REGARDING THE COMPLAINT OF R. K. OF 16 JANUARY 2017

12 May 2017, No. SP-13

Vilnius

The Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Ombudsman), in accordance with Part 1 of Paragraph 17 of the Law on Science and Studies of the Republic of Lithuania and with Subparagraph 1 of Paragraph 13 of the provisions of the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania, approved by 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“, and after examination of the complaint (hereinafter - the complaint) of the applicant R. K. (hereinafter - the applicant<sup>1</sup>) received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 19 January 2017 regarding possible violations of the academic ethics and procedures of the Lithuanian University of Health Sciences (hereinafter - the LSMU), the applicant’s application forwarded by the letter No. (17)-SN-59)S-178 of the Equal Opportunities Ombudsperson of the Republic of Lithuania of 13 March 2017 “Regarding discrimination for providing information about mobbing, lack of publicity, transparency and other issues”, and the provided material,

### **determined:**

The applicant complains about the resolution of the Commission for the Reception and Attestation of Lecturers and Researchers of the Faculty of Public Health of the Medical Academy of the Lithuanian University of Health Sciences of 29-12-2016, by which the applicant has not been elected to the position of associate professor at the Department of Social Sciences and Humanities of the Faculty of Public Health of the Medical Academy of the Lithuanian University of Health Sciences, as well as about the decision of the members of the Commission regarding the non-compliance of the qualification requirements for the position of the associate professor.

The applicant stated that “At voting of the members of the Commission on 29-12-2016, <...>, the votes distributed evenly. <...> “a debate was held between the members of the Commission before the repeated voting, which crystallized <...> the main observations” [quote from the minutes of the meeting of the Commission]<sup>2</sup>. The Commission presented them with three points. The first one. The Commission cannot acknowledge that I [the applicant] have fulfilled “the mandatory qualification requirement specified in Clause 9.2.2. of the Procedure [The procedure of establishment qualification and attestation requirements for positions of lecturers and researchers, publication, organization and execution of competitions for lecturers and researchers, as well as

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<sup>1</sup> “Applicant” in the text of the Ombudsman’s decision is given generally as a noun of masculine gender without linking it to the sex of the applicant.

<sup>2</sup> Here and hereinafter in the square brackets - the comments of the Office.

attestation of lecturers and researchers, approved by the Resolution No. 75-08 of the Senate of the LSMU of 17 June 2016], which states “leads undergraduate or graduate theses.” <...> the requirement of Clause 9.2.2. <...> came into force only from 1 September 2016 <...>. The second one “the submitted documents do not contain information on how many publications the candidate [the applicant] prepared after the doctoral dissertation”. <...> the requirements of Clause 9.2.4 came into force from 1 September 2016 <...>. The third one: “doubts arose because of the quality of the provided study book <...>, because it was not approved at the meeting of the Council of the Faculty of Public Health in accordance with the procedure existing in the Lithuanian University of Health Sciences”. My study book <...> was considered at the meeting of the Department of Social Sciences and Humanities of the Faculty of Public Health of the Medical Academy of the Lithuanian University of Health Sciences. <...> it was recommended to supplement the book without specifying the deadline for submitting it for the approval at the meeting of the Council of the Faculty of Public Health. The book <...> was published on my expenses, registered in the library’s list of publications published in LSMU, it was used for teaching students of the LSMU.”<sup>3</sup>

In addition, the applicant stated that “<...> Professor of the Department of Sociology of Vytautas Magnus University Vylius Leonavičius was one of the 8 members of the Commission who attended the meeting. V. Leonavičius together with [the participant who won the competition for the position of associate professor on 29 December 2016 (hereinafter - the participant)] works at the Department of Sociology of Vytautas Magnus University <...>. Although the Procedure does not provide that the members of the Commission related by professional ties must withdraw, the active participation of V. Leonavičius <...> could <...> affect the Commission’s voting results and the bias of the members of the Commission.”

The applicant requests the Ombudsman the following:

“1. To assess the Commission’s bias and violations committed in assessing the non-compliance of my qualifications with the position of associate professor.

2. To assess the Procedure of the LSMU that discriminates against employees working under fixed-term employment contracts for depriving them of the right to appeal against the Commission’s decision.

3. To assess whether some of the members of the Commission did not violate ethical principles when assessing the candidacy [of a participant].

4. To determine whether the participation of Prof. V. Leonavičius in the meeting of the Commission is not in conflict with objectivity and impartiality criteria.

5. To oblige the LSMU to revoke an unjustified decision of the Commission which does not comply with the actual circumstances, in which it is stated that I do not appear to meet the qualification requirements for the position of associate professor.

On 19 January 2017, the Office received the applicant’s information together with the complaint, which supplemented the circumstances specified in the complaint:

1) the copy of the minutes of the meeting of the Commission of the Faculty of Public Health of the Medical Academy of the LSMU of 29 December 2016;

2) the copy of the list of the applicant’s scientific publications;

3) the copy of the letter of the Chairperson of the Council of the Faculty of Public Health of the Medical Academy of the LSMU of 11 January 2017.

By the letter No. S-44 of 24 January 2017, the Ombudsman addressed to the Medical Academy of the LSMU requesting:

“1) to submit the legal acts regulating the procedure of attestation and organization of competitions for positions of lecturers and researchers at the Lithuanian University of Health Sciences (hereinafter - the LSMU) (existing and in force until September 2016);

2) to submit the copy of the minutes No. 16-06 of 29-12-2016 of the Commission for the Reception and Attestation of Lecturers of the Faculty of Public Health of the Medical Academy of the LSMU (hereinafter - the Commission) and the sound record (if available);

<sup>3</sup> The applicant's language quoted here and hereinafter in the decision is unedited.

- 3) to submit the completed Attestation Card [of the applicant], which was submitted to the Commission at the [applicant's] attestation in December 2016;
- 4) to submit the documents confirming the recommendation to supplement the study book [of the applicant] <...>;
- 5) to submit the documents confirming the requirement to approve the study book <...> [of the applicant] at the Council of the Faculty of Public Health, and to indicate the legal basis for this requirement;
- 6) to indicate and submit all the documents (data) which were submitted to the Commission in execution the [applicant's] attestation and the competition;
- 7) to indicate the dates, results of the [applicant's] attestation and competition, and to submit the minutes and the sound records (if available) of the attestation and the competition;
- 8) to indicate which assessment criteria, requirements were applied and which [applicant's] data were assessed during his attestation and at the time of the competition, and to submit all documents related to the assessment of these data;
- 9) to indicate which qualification requirements [the applicant] did not meet; to justify the answer;
- 10) to indicate the [applicant's] latest 5-year term of office;
- 11) to submit the list of the persons participated in the competition for the position of the associate professor at the Department of Social Sciences and Humanities of the Faculty of Public Health of the Medical Academy of the LSMU in December 2016;
- 12) to submit the list of the members of the Commission and the legal acts regulating the activities of the Commission;
- 13) to indicate the cases of academical relations of V. Leonavičius and [the participant] and to submit the confirming documents;
- 14) to indicate the procedure for appealing against the decision of the Commission in the LSMU.”

By the letter No. DVT2-298 of 21 February 2017, the LSMU indicated as follows:

“1. We send you “[The procedure] of establishment qualification and attestation requirements for positions of lecturers and researchers, publication, organization and execution of competitions for lecturers and researchers, as well as attestation of lecturers and researchers of the Lithuanian University of Health Sciences (hereinafter - the Competition and Attestation Procedure) <...>. The competition for the position of the associate professor, in which [the applicant] participated, was announced <...> and executed under this procedure.

<...> to familiarize yourself with the previous editions of the Competition and Attestation Procedure <...> you can <...> on the University's website <...>.

3. <...> We would like to point out that <...> [the applicant's] attestation was not carried out in December 2016. The Law on Science and Studies clearly distinguishes between two procedures - a public competition for a position and attestation. <...> The competition is announced specifically for the position, not for the person.

<...> In this case, the competition for the position of the associate professor was announced, [the applicant], in response to a public notice of this competition, submitted the request and other documents necessary for the competition. <...> The fact that the title of one of the documents is “Attestation Card” does not mean that the [applicant's] attestation has been carried out. <...> The University has chosen to use one document in two procedures, <...> format <...> is appropriate in both cases.

<...> we are sending the Attestation Card <...>.

4. <...> we submit the minutes No. VF-02-03-05 of the meeting of the Department of Social Sciences and Humanities of the Lithuanian University of Health Sciences of 15 December 2015 <...>.

5. <...> Clause 5.14 [of the Competition and Attestation Procedure] specifies: <...> The study book is a book for learning that was reviewed and assessed in accordance with the established procedure <...>. On 15 December 2015, <...> “the discussion on the [applicant's] study book <...>

and the assessment whether the book is appropriate for publication took place”. <...> The participants of the meeting had comments <...>. In view of these circumstances, <...> the decision was adopted “To recommend the Council of the Faculty of Public Health to approve the [applicant’s] study book after the corrections, taking into account the comments made <...>”.

Attention is also drawn to the fact that the established procedure has not been followed by the sole [applicant] during the last year <...> <...> the approval of teaching literature in the Council of the Faculty is the usual and sole practice aimed at ensuring the quality of publications intended for the students of the LSMU.

6. <...> The Attestation Card is provided, additionally we attach the [applicant’s] e-mails sent to the Chairperson of the Commission, by which he supplemented the submitted information, as well as the list of scientific publications, the certificate of the publication in the journal “Health Sciences”, as well as the curriculum vitae, the copy of the doctoral diploma <..>.

7. <...> The meeting of the Commission of the competition was held on 29-12-2016. [The participant] won the competition.

8. <...> During the competition, the compliance of the candidates with the qualification requirements for the position of the associate professor specified in Clause 9.2 of the Procedure [Competition and Attestation Procedure] was assessed. <...> the documents submitted by the candidates were assessed, during the individual interview the candidates’ compliance with the minimum qualification requirements was assessed, as well as the results of studies, science and science applied and educational activities, achieved through career, professional and work experience and business characteristics <...>.

When checking the compliance of the candidate [applicant] with [Clause] 9.2.1.3. of the Procedure [Competition and Attestation Procedure], it turned out that the study book <...> was considered at the non-study program committee and the Council of the Faculty, but at the meeting of the Department of Social Sciences and Humanities of the LSMU.

9) the documents submitted by [the applicant] do not contain data on leading for the final thesis for undergraduate or graduate students. <...> the verbal information not supported by evidence is not sufficient to admit that [the applicant] has complied with the mandatory qualification requirement set out in Clause 9.2.2. of the Procedure [Competition and Attestation Procedure]. (Only in academic year 2016/2017, 54 study programs are conducted at the University, then the Commission is not obliged to check the existence or non-existence of existing facts. <...> it would violate the rights of the participants of the competition who had not previously worked at the LSMU, - their incomplete or inaccurate documents would mean that they did not meet the requirements of the competition, while in the event of the wreck of the documents submitted by the employee of the LSMU, the unsuccessful candidate would probably become eligible.) In accordance with Clause 28.7. of the Procedure [Competition and Attestation Procedure], <...> the submission of precise accurate and complete documents is the responsibility of the participant of the competition.

The submitted documents do not contain information on how many publications the candidate has prepared after his doctoral dissertation, nor did he answer this question during the interview. <...> on the basis of the submitted documents, it is not possible to check whether [the applicant] complies with the requirement of Clause 9.2.4. of the Procedure [Competition and Attestation Procedure].

The doubts arose because of the quality of the study book <...> provided by the candidate, because it was not approved at the meeting of the Council of the Faculty of Public Health in accordance with the procedure existing in the Lithuanian University of Health Sciences.

10) <...> [the applicant’s] 5-year term of office ended on 16-01-2017.

11) <...> participated in the competition for the position of the associate professor at the Department of Social Sciences and Humanities of the Faculty of Public Health of the Medical Academy of the LSMU in December 2016:

1. [the applicant];
2. [the participant].

13) <...> The term “academical relations” is not clear in itself. It was known to the Commission that V. Leonavičius and [the participant] are co-workers at Vytautas Magnus University, who are engaged in scientific activities and having joint publications, as at the meeting of the Commission, V. Leonavičius informed about this orally and withdrew from the issue.

14) <...> {in accordance with] Clause 40 of the Procedure of establishment qualification and attestation requirements for positions of lecturers and researchers, publication, organization and execution of competitions for lecturers and researchers, as well as attestation of lecturers and researchers of the Lithuanian University of Health Sciences, “the participant of the competition, who does not agree with the results of the competition, within one month from the day of the meeting of the Commission of the Competition may appeal its results to the court in the manner prescribed by law.”<sup>4</sup> (underlined by us).

By the letter No. S-109 of 10 March 2017, the Ombudsman addressed to the LSMU requesting the following:

“1) to submit the legal act establishing the main principles of activities of the Commission of Attestation of researchers and lecturers of the LSMU which organizes competitions and attestations;

2) to submit the legal act regulating the procedure of review, assessment and approval of publications in the LSMU;

3) to indicate the periods and the positions held by [the applicant] at the LSMU. To submit the documents confirming the nature of the positions (for example, the job description).”

By the letter No. DVT2-441 of 17 March 2017, the LSMU indicated as follows:

“1. Together with the letter No. DVT2-298 of 21-02-2017 we sent you the copy of the procedure of establishment qualification and attestation requirements for positions of lecturers and researchers, publication, organization and execution of competitions for lecturers and researchers, as well as attestation of lecturers and researchers of the Lithuanian University of Health Sciences (hereinafter - the Competition and Attestation Procedure) <...>. This is the main document regulating the competition procedure. In the event of uncertainty as to one or the other provision, they should be interpreted by the legal acts on the basis of which this Competition and Attestation Procedure is drawn up <...>.

2. There is no document in which the publication process of all types of publications is systematized at the Lithuanian University of Health Sciences. <...> In accordance with Clause 81, Clause 55, Paragraph 55 of Clause 86, Paragraph 6 of Clause 95. One of the functions of the department, profile clinic, institute is to prepare textbooks, scientific articles, teaching books and other study and scientific materials. Therefore, in order to approve the piece of work as a certain type of educational material, it is first discussed at the meeting of the unit (department, profile clinic or institute), where its content and other indicators are assessed by the specialists of the same field of science. The piece of work considered at the meeting of the unit, after corrections (if necessary), is submitted for consideration to the council of the faculty to which the unit belongs. <...>

In order to avoid any ambiguity and to regulate certain aspects of publishing, the Rector of the LSMU, on 20 February 2017 formed a working group <...>, which was instructed to prepare a draft publication procedure for the Lithuanian University of Health Sciences. The working group fulfilled the task, after aligning the draft text with the language editor, it will be approved by the Rector’s order in the near future.

3. We send a copy of [the applicant's] employment contract with all amendments and job description. It is apparent from these documents that, on 2 January 2003, Kaunas University of Medicine signed an employment contract with [the applicant] for the position of lecturer. Since 26 January 2007 [the applicant] was holding the position of the associate professor. The employment contract was terminated on 2 March 2007, when the termination of the contract was due (the termination date was delayed due to the [applicant’s] illness.” (underlined by us).

<sup>4</sup> The language of the LSMU quoted here and hereinafter in the decision is unedited.

By the letter No. (17)-SN-59)S-178 of the Equal Opportunities Ombudsperson of the Republic of Lithuania of 13 March 2017 “Regarding the [applicant’s] application” indicated that on 3 March 2017 he received the [applicant’s] application “Regarding discrimination for providing information about mobbing, lack of publicity, transparency and other issues” (hereinafter - the application), and that the application “<...> is submitted for examination in accordance with the competence to the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania.” Also the copy of the [applicant’s] application was attached.

By the application of 27 February 2017, the applicant requested the Equal Opportunities Ombudsperson “<...> to find out whether my rights as a citizen of the Republic of Lithuania were violated and whether discriminatory actions against me were not applied in the LSMU.”

The applicant also stated: “<...> while holding the position of associate professor at the Department of Social Sciences and Humanities (SHMK) of the Faculty of Public Health of the Medical Academy of the Lithuanian University of Health Sciences, I actively participated in social, pedagogical and scientific activities, but my suggestions on how to improve the working conditions of the staff and improve the quality of studies were not taken into account. <...> During over 14 years of my work in the LSMU, I have never been involved in the activities of the institutions of the LSMU (commissions, committees, councils, etc.), although for other less experienced employees such opportunities have been continuously created. Also, I was not given the opportunity to lead PhD, Masters or Bachelor theses. <...> By the letter of 08-10-2007 to the then Rector of the Kaunas University of Medicine, the Dean of the Faculty of Public Health of Kaunas University of Medicine and the staff of the Department of Social Sciences and Humanities of the Faculty of Public Health of Kaunas University of Medicine, I submitted a proposal for a transitional period strategy for the Department of Social Sciences and Humanities of the Faculty of Public Health of Kaunas University of Medicine. <...> I have not received any response so far. <...> By the letter of 14-11-2012, I presented my observations and questions about the actions of the Head of the Department of Social Sciences and Humanities L. R., but I have not received any response to these questions until now. <...> By the letter of 09-04-2013, I addressed to the Law and Ethics Commission of the LSMU “Regarding the actions of L. Rinkevičius, the Professor of the Department of Social Sciences and Humanities”. I would like to ask you to analyze the activities of L. Rinkevičius, the Professor of the Department of Social Sciences and Humanities of the Medical Academy of the LSMU from the point of view of academic ethics and to assess the following:

- whether the material and human resources are used in the Department of Social Sciences and Humanities of the Medical Academy of the LSMU properly in accordance with the legal acts of the Republic of Lithuania and the procedure provided by the Senate of the LSMU;
- whether the salary fund of the Department of Social [Sciences] and Humanities of the LSMU is used properly, efficiently and correctly;
- whether the methods of allocation of the financial resources of the Department invented unilaterally by the Head are not in conflict with the principles of academic democracy, publicity and transparency.

Also I would like to ask you to investigate and assess whether Prof. L. Rinkevičius does not overuse his position as the Head of the Department in cases where:

- he solves alone the majority of matters of the Department of Social Sciences and Humanities of the LSMU;
- when he makes decisions without taking into account the opinion of other staff of the Department and their will;
- when he does not give access to the minutes of the meeting of the Department;
- when the proposed issues are not included in the meetings of the Department or when they are not considered at all;
- when the staff of the Department are invited to pay at their own expense for the alleged costs of the organized events.

In January 2016, I became a member of the Board of the Association of Trade Unions of Lithuanian Higher Education Schools (LAMPSS), I actively participated in its activities, expressing my civic position.

As a consequence of all this, in December 2016, in the public competition (for the position of the associate professor at the Department of Social Sciences and Humanities), certain decisions were taken in respect of me, in which I have been criticized for lack of work with students or lack of project activity, regardless of the fact that conditions and opportunities were not created for it.

As a result of the above factual circumstances, such a situation could be described as a possible discrimination against the employee <...>. Therefore, I believe that such cases should be assessed by authoritative, independent and impartial state institutions.” (underlined by us).

The Ombudsman, in view of this statement, by the letter No. S-123 of 20 March 2017 addressed to the applicant requesting to submit the following:

“1) the data confirming the actions indicated in the application: “<...> I actively participated in social, pedagogical and scientific activities, but my suggestions <...> were not taken into account.”; <...> I was not given the opportunity to lead <...> theses <...>.”;

2) the proposal of 08-10-2007 and the application to the Law and Ethics Commission of the Senate of the LSMU of 09-04-2013 specified in the application;

3) the observations and questions about the actions of L. R. submitted by the letter of 14-11-2012 specified in the application, indicating the addressees;

4) the correspondence with the Trade Union Committee of the Medical Academy of the LSMU from 16 January 2013.”

The applicant submitted the following to the Office by the e-mails of 23 March 2017:

1) the press releases, correspondence with colleagues from the LSMU, confirming participation in public activities;

2) the application of 19 April 2013 not confirmed by the applicant’s signature to the members of the Law and Ethics Commission of the Senate of the LSMU “Regarding the actions of L. Rinkevičius, the Professor of the Department of Social Sciences and Humanities”;

3) the proposal of 8 October 2007 “For a transitional period strategy for the Department of Social Sciences and Humanities of the Faculty of Public Health of Kaunas University of Medicine” addressed to the Rector of the Kaunas University of Medicine Prof. R. Žaliūnas, the Dean of the Faculty of Public Health of Kaunas University of Medicine Prof. R. Kalėdienė, the staff of the Department of Philosophy and Social Sciences of the Faculty of Public Health of Kaunas University of Medicine;

4) the response of the Trade Union Committee of the Medical Academy of the LSMU to the applicant’s referral of 16 January 2013 to “the Trade Union Committee (of the Medical Academy of the LSMU) on the issues of wages and the organizational climate problems of the Department of Social Sciences and Humanities”;

5) the copy of the final topics of the Course IV of the Public Health for 2016/2017 and the list of leading persons of the Faculty of Public Health of the Medical Academy of the LSMU, approved by the signature of the Head of the Legal Service of the LSMU and the stamp “True Copy”, in which it is indicated that the applicant leads one final thesis;

6) The minutes No. VF-02-03-01 of the meeting of the Department of Social Sciences and Humanities of the LSMU of 3 September 2013, not certified by the signatures of the responsible persons, in which it is indicated that “In the absence of a clear answer, [the applicant] again submitted the request to the LSMU (8 October 2013) regarding the submission of the data and documents related to the wages.” It should be noted that in the part of the “Decisions” of the submitted minutes two points are presented with the content, and the third one is without content (underlined by us).

*It needs to be noted that the Ombudsman examined the complaint without analyzing and assessing the date presented in informal, i.e. not confirmed by the signature, documents or in their draft variants.*

By the letter No. S-124 of 20 March 2017, the Ombudsman addressed to the LSMU requesting the following:

- “1) to submit the legal acts regulating the procedure of formation and activities of the committees, commissions, council and other internal institutions of the LSMU;
- 2) to submit a law regulating the procedure of leading of PhD, Masters or Bachelor theses;
- 3) to submit the legal act regulating the activities of the Law and the Ethics Commission of the Senate of the LSMU;
- 4) to submit the decision on the referral of [the applicant] of 09-04-2013 to the Law and Ethics Commission of the Senate of the LSMU “Regarding the actions of L. Rinkevičius, the Professor of the Department of Social Sciences and Humanities”;
- 5) to indicate the operating trade unions of the LSMU and to submit the legal acts regulating their activities.”.

By the letter No. DVT2-508 of 29 March 2017, the LSMU indicated as follows:

“1. <...> Due to the diversity of competences, the difference between the issues to be addressed, there is no legal act devoted to regulating the activities of the permanent and temporary collegiate bodies. The governing bodies of the University are regulated in the Statutes, the activities of the councils of the faculty or the institute - in the regulations of the respective unit, the work of the senate commissions is regulated by the Senate’s Rules of Procedure, the work of the Dispute Resolution Commission is regulated in a separate document. In any case, collegiate bodies must comply with the Statute of the Lithuanian University of Health Sciences <...>, the Code of Ethics of the Lithuanian University of Health Sciences <....>.

2. <...> We send you the copy of the final work regulations of the first stage study program “Public Health” of the Faculty of Public Health of the Medical Academy of the LSMU <...>. No final works were defended that would be led by the applicant during the term of office of the Associate Professor of 2012-2017. The Commission for the compilation of public health first stage studies has not received any individual programs for the preparation of at least partly completed graduate work which would be led by the applicant. Attention is also drawn to the fact that the applicant submitted a very detailed curriculum vitae for the competition. It even includes a review of the final thesis of the first stage. However, there is no evidence of leading for the preparation of the final thesis. <...>

3. The activities of the Law and the Ethics Commission of the Senate of the LSMU are regulated by the Labor Code of the Senate of the LSMU <...>, to a certain extent, the Code of Ethics of the LSMU.

4. The referral of [the applicant] of 09-04-2013 to the Law and Ethics Commission of the Senate of the LSMU “Regarding the actions of L. Rinkevičius, the Professor of the Department of Social Sciences and Humanities” is not registered in the university document management system of the LSMU, also there is no data on the consideration of such a referral at the Law and Ethics Commission of the Senate of the LSMU.

5. The Trade Union of the Lithuanian University of Health Sciences <...> operates in the Lithuanian University of Health Sciences. It must follow the Law on Trade Unions of the Republic of Lithuania and its articles of association. As it is a separate legal entity, we cannot present the relevant version of its articles of association <...>.

In addition, we send you the copy of the publication procedure of the Lithuanian University of Health Sciences, mentioned in previous communications on this subject. We do not send additionally the legal acts that are publicly disclosed.”

By the letter No. S-173 of 14 April 2017, the Ombudsman addressed to the Trade Union of the Lithuanian University of Health Sciences requesting:

- “1) to submit legal acts governing the activities of the Trade Union of the LSMU;



2) to submit the referral of [the applicant] of 16 January 2013 to “the Trade Union Committee (of the Medical Academy of the LSMU) on the issues of wages and the organizational climate problems of the Department of Social Sciences and Humanities” and the response of the Trade Union of the LSMU;

3) to submit the documents confirming the membership of [the applicant] in the Trade Union of the LSMU;

4) to indicate the position of [the applicant] that he held / is holding in the Trade Union of the LSMU from the time of becoming the member of the Trade Union of the LSMU until now.”

By the letter of 21 April 2017, the Trade Union of the LSMU provided all the requested information. It also provided the applicant’s referral of 16 January 2013 to the Trade Union of the LSMU and the reply of the Trade Union of the LSMU of 15 April 2013 to the applicant, which indicates that it was applied to the University’s administration regarding the wages, and that on problematic issues within the Department it is expedient to apply to the Ethics Commission of the Senate of the LSMU, and it is invited to become the members of the Trade Union of the LSMU.

By the letter No. S-194 of 27 April 2017, the Ombudsman addressed to the LSMU and indicated that “after the additional circumstances emerged due to the date of the referral of [the applicant], the Ombudsman, in accordance with Paragraphs 1 and 2 of Clause 14 of the Provisions, requests to submit the decision on the referral of [the applicant] of 19-04-2013 to the Law and Ethics Commission of the Senate of the LSMU “Regarding the actions of L. Rinkevičius, the Professor of the Department of Social Sciences and Humanities”. Also, in view of possible inaccuracies regarding the information provided to the Ombudsman, to inform and submit to the Ombudsman the referral of [the applicant] to the Law and Ethics Commission of the Senate of the LSMU “Regarding the actions of L. Rinkevičius, the Professor of the Department of Social Sciences and Humanities”, if it was provided on the date other than indicated, and the decision of the Law and Ethics Commission of the Senate of the LSMU on the referral.”

By the letter No. DVT2-722 of 8 May 2017, the LSMU indicated that the LSMU “<...> in the previous letter indicated that the referral of [the applicant] of 09-04-2013 to the Law and Ethics Commission of the Senate of the LSMU “Regarding the actions of L. Rinkevičius, the Professor of the Department of Social Sciences and Humanities” is not registered in the document management system of the LSMU, also there is no data on the consideration of such a referral at the Law and Ethics Commission of the Senate of the LSMU. In addition, we indicate that Associate Professor <...> who held the position of the Chairperson of the Law and Ethics Commission of the Senate of the LSMU in 2013 and Professor <...> who held the position of the Secretary, repeatedly assessed all the available material of that year. They did not find any the referral of [the applicant] or any data on consideration of such referral.”

*It needs to be noted that the Ombudsman assessed the circumstances of the complaint and adopted the decision in accordance with the competence established in the legal acts, i. e. he analyzed and assessed possible procedural violations established only in the Code of Ethics of the LSMU.*

*Attention is drawn to the fact that according to Part 1 of Article 18 of the Law on Education and Studies of the Republic of Lithuania, in force until 1 January 2017, which establishes that “the Ombudsman for Academic Ethics and Procedures <...> is a public official who examines complaints and initiates investigations on violations of academic ethics and procedures”, the Ombudsman has been mandated to examine complaints and initiate investigations on violations of all procedures, not only the procedures that are established in the codes of academic ethics of science and study institutions.*

After the analysis and assessment of the information provided by the applicant, the LSMU and the Trade Union of the LSMU as well as the legal regulation, it was determined that the

competition for the position of the associate professor at the Faculty of Public Health of the Medical Academy of the Lithuanian University of Health Sciences took place on 29 December 2016 at the Lithuanian University of Health Sciences (hereinafter - the competition). In accordance with the procedure of establishment qualification and attestation requirements for positions of lecturers and researchers, publication, organization and execution of competitions for lecturers and researchers, as well as attestation of lecturers and researchers of the Lithuanian University of Health Sciences, approved by the Resolution No. 75-08 of the Senate of the Lithuanian University of Health Sciences of 17 June 2016], the Commission consisting of nine members was formed, one of the members of the Competition Commission was Prof. Dr. Vylius Leonavičius, who works together with the winner of the competition at the Department of Sociology of the Faculty of Social Sciences of Vytautas Magnus University.

The data submitted to the Office shows that during the vote of the members of the Commission, Prof. Dr. Vylius Leonavičius withdrew from the voting procedure on a possible conflict of interest.

***Taking into account that Prof. Dr. Vylius Leonavičius, being a member of the Commission, withdrew from the voting procedure, there is no justification for finding violation of the academic ethics by Prof. Dr. Vylius Leonavičius.***

***Moreover, there is no justification for finding violations of the academic ethics by of other members of the Commission.***

*Taking into account the circumstances of the claim and received information and in accordance with Part 1 of Article 17 of the Law on Education and Studies of the Republic of Lithuania, which establishes that “the Ombudsman for Academic Ethics and Procedures <...> is a public official who examines complaints, reports and conducting investigations at his own initiative on possible violations of academic ethics and procedures that are established in the codes of academic ethics of science and study institutions <...>”, ***the Ombudsman did not determine any violations of the procedures established in the Code of Academic Ethics of the LSMU*** (underlined by us).*

After the evaluation of the information submitted by the applicant, the LSMU and the Trade Union of the LSMU and the legal regulation, and in accordance with Paragraph 1 of Part 11 of Article 17 of the Law on Education and Studies of the Republic of Lithuania, the Ombudsman:

**decided:**

To inform the applicant, the Lithuanian University of Health Sciences and the Ministry of Education and Science about the decision of the Ombudsman.

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