



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

DECISION REGARDING THE VIOLATION OF THE SENATE OF THE LITHUANIAN UNIVERSITY OF EDUCATIONAL SCIENCES

14 June 2017, No. SP-16
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 Higher Education and Research 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 of T. G. (hereinafter - the applicant)¹ received in the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) on 18 April 2017 (hereinafter - the complaint) regarding possible violations of the academic ethics and procedures of the Ethics and Dispute Resolution Commission (hereinafter - the Commission) of the Lithuanian University of Educational Sciences (hereinafter - the LEU), and the provided material,

determined:

The applicant complains about the staff of the LEU: Prof. Dr. Saulius Stanaitis, Dr. Vida Navickienė, Asta Meškauskienė and Doc. Dr. Deimantas Karvelis, and the Commission, who “<...> possibly violated the academic ethics and procedures and the Civil Code of Lithuania.”²

The applicant stated that “on 22 November 2016, at [the meeting of the Commission of the LEU]³, the said persons did not ensure the right for my wife to participate in the meeting <...> publicly humiliated the spouse’s name, weakened the name of the spouse and its significance in society, did not ensure the possibility for the spouse to properly implement her rights and strengthen the basis of the family name and its significance in society.”

The applicant also indicated that “There was a violation of the Code of Ethics of the LEU in terms of Clause 3 of Chapter I, Clauses 6.1, 6.2, 6.3, 7.2, 7.3, 7.8 (unlawful impact on the university member), 9.1 of Chapter II, Clause 14 of Chapter II (because contradicts to the MSĮ <...>. The administration and the student representation of the high school <...> appoint an equal number of authorized persons <...> to the dispute resolution commission.”) and Clause 27.”

Attention is drawn to the fact that the applicant did not specify in the complaint the specific staff of the LEU and their actions which allegedly infringed the provisions of the Code of Academic Ethics of the LEU referred to by the applicant.

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

² The applicant’s language quoted here and hereinafter in the decision is unedited.

³ Here and hereinafter in the square brackets - the comments of the Office.

It needs to be noted that the Ombudsman assesses the circumstances of the complaint and adopts the decision in accordance with the competence, therefore, he did not assess the actions of the members of the Commission of the LEU in respect of the applicant's spouse in the context of the Civil Code of the Republic of Lithuania.

The applicant requests the Ombudsman "<...> to inform the institutions of science and studies and the Ministry of Education and Science about persons who have committed violations of academic ethics and procedures."

On 18 April 2017, the applicant, together with the complaint, provided the following:

1) the statement of the applicant of 17 April 2017 to the Chairperson of the Commission of the LEU Prof. Dr. Saulius Stanaitis;

2) the sound record of the meeting of the Commission of the LEU of 22 November 2016;

3) the verbatim transcript of the unnamed sound record.

The Ombudsman by his letter No. S-184 of 21 April 2017 "Regarding the submission of the information", the Ombudsman addressed to the LEU, requesting:

"1) to submit legal acts regulating the procedure for the formation and organization of the Commission of the LEU, relevant for the period until 22 November 2016;

2) to indicate the composition of the Commission of the LEU at the meeting of 22 November 2016 and to submit confirming documents;

3) to submit the list of all persons participated in the meeting of the Commission of the LEU of 22 November 2016 and to indicate the invited and non-invited persons."

By the letter No. 24-R4-445 of 12 May 2017 "Regarding the submission of the information", the LEU informed the Ombudsman that "<...> Chapter 3 [of the Code of Academic Ethics of the LEU] specifies the procedure for the formation and organization of the Commission of the LEU <...>." and submitted the requested information:

1) the Code of Academic Ethics of the LEU confirmed by the Resolution No. 96 of the Senate of the LEU of 17 April 2012 (hereinafter - the Code of academic Ethics of the LEU);

2) the Order No. 1-170 of the Rector of the LEU of 19 March 2015 "On Approval of the Ethics and Dispute Resolution Commission of the Lithuanian University of Educational Sciences", in which nine members of the Ethics and Dispute Resolution Commission of the LEU are named and approved [hereinafter - the Order of the Rector of the LEU];

3) the list of the persons participated in the meeting of the Commission of the LEU of 22 November 2016;

4) the extract of the minutes of the meeting of the Commission of the LEU of 22 November 2016, not certified by the signatures of the responsible persons.

Clause 10 of Chapter III of the Code of Academic Ethics of the LEU "Formation, Functions and Work Organization of the Ethics and Dispute Resolution Commission" establishes that "the aim of the Ethics and Dispute Resolution Commission <...> is to analyze and evaluate violations of the principles of the Code of Academic Ethics."

The Resolution No. 377 of the Senate of the LEU of 18 March 2015 "On approval of the Ethics and Dispute Resolution Commission of the Lithuanian University of Educational Sciences", confirmed by the signature of the Chairperson of the Senate of the LEU Audronius Vilkas (hereinafter - the Resolution) is published on the website of the LEU. The document indicates that "on the proposal of the Rector of the Lithuanian University of Educational Sciences Algirdas Gaižutis, the Senate resolves: To approve the Ethics and Dispute Resolution Commission of the Lithuanian University of Educational Sciences <...>". By the Resolution, the Senate approved the Commission of the LEU consisting of nine members, of which seven members are the employees of the administration of the LEU, one member is delegated by the student representation.

By the letter No. S-240 of 16 May 2017 "Regarding the submission of the information", the Ombudsman addressed to the LEU, requesting to indicate the following:

“1) the legal basis for the formation of the Ethics and Dispute Resolution Commission of the LEU of nine members;

2) whether the dispute resolution commission established in the Law on Higher Education and Research operates in the LEU. To submit legal acts governing its (commission’s) activities.”

By the letter No. 24-R4-501 of 29 May 2017 “Regarding the submission of the information”, the LEU pointed out that “the Ethics and dispute Resolution Commission (Order No. 1-170 of the Rector of the LEU of 19 March 2015) consisting of 9 members currently operates in the LEU. The University will review the Code of Ethics. Also there will be considered the issue on establishment of a separate dispute commission in accordance with Part 8 of article 62 of the Law on Higher Education and Research of the Republic of Lithuania.” (underlined by us).

The attention is drawn to the fact that the Law on Higher Education and Research of the Republic of Lithuania (hereinafter - the Law) (Part 8 of article 55), valid both before the meeting of the Commission of the LEU of 22 November 2016 and after the said meeting (Part 8 of article 62 of the Law), establishes that “A dispute resolution commission operates in the high school. This commission resolves the disputes of the students and administration or other staff, related to science and study activities. The administration and the student representation (if not present, the general student meeting (conference) of the high school appoint an equal number of authorized persons to the dispute resolution commission. The procedure for the formation of disputes commission, the settlement of disputes and the implementation of decisions are determined by the Statute of the High School.” (underlined by us).

It should be noted that before the date of adoption of this decision there is no separate dispute resolution commission at the LEU. The Commission of the LEU, the aim of which, as it is determined in Clause 10 of the Code of Academic Ethics of the LEU, is to analyze and evaluate violations of the principles of the Code of Academic Ethics of the LEU, consists of nine members, of which seven members are the employees of the administration of the LEU and one member is the representative of students, i.e. the Commission of the LEU does not resolve disputes between students and administrators or other staff related to science and studies and is not composed of equal number of authorized persons from the staff of the administration of the LEU and the student representation.

Also it needs to be noted that the Ombudsman assesses the circumstances of the complaint and adopts the decision in accordance with the competence, therefore, he did not assess the possible violations of the procedures established in the internal legal acts of the LEU and other legal acts of the Republic of Lithuania.

After the analysis and assessment of the information provided by the applicant and the LEU as well as the legal regulation, the following was determined:

1. Regarding the applicant’s statement that the Commission of the LEU did not ensure the right for the applicant’s spouse to participate in the meeting of the Commission of the LEU of 22 November 2016:

Paragraph 4.1 of Part I of the Code of Academic Ethics of the LEU “General Provisions” establishes that “The University Community - the University’s teachers, University’s administrative staff, students.”; Clause 27 of Part III “Formation, Functions and Work Organization of the Ethics and Dispute Resolution Commission” establishes that “The members of the University Community have the right to attend the Commission meeting only in cases where the issue or information relating to them is considered and if the Commission (simple majority) agrees with that. Only members of the Commission may be present in the room at the time of the adoption of the decision.” (underlined by us).

In view of the foregoing that the applicant’s spouse was not a member of the Community of the LEU at the time of the said meeting, there is no justification for finding violation of the right for the applicant’s spouse to participate in the meeting of the Commission of the LEU.

2. Regarding the applicant's statement that Clauses 6.1, 6.2, 6.3, 7.2, 7.3, 7.8 and 9.1 of the Code of Academic Ethics of the LEU were violated:

Paragraph 6.1 of Clause 6 "Respect for Human Dignity, Promoting Equal Rights and Opportunities" of Part II "Ethical Principles and Possible Violations" of the Code of Academic Ethics of the LEU establishes that "Not to discriminate the members of the University Community and other persons by language, actions or academic assessment due to age, gender or sexual orientation, disability, race or ethnicity, religion or beliefs, social or economic status, political or social attitudes. Not to underestimate personal dignity, not to insult, not to intimidate or to act hostile, not to harass sexually, especially using his/her superiority as a teacher, researcher or administrator."; Paragraph 6.2: "Not to tolerate the cases of seeking to create or creating an intimidating, hostile, degrading or offensive environment, including violation of human rights or degrading human dignity."; Paragraph 6.3: "To ensure equal rights, opportunities and decent working conditions for all members of the University Community. "Not to tolerate favoritism, not to publicly demonstrate sympathy or antipathy to the members of the Community. It is prohibited to distinguish in an undeserved manner or unreasonably claim for exclusive rights or to create exclusive rights or opportunities for certain members of the Community."; in paragraph 7.2 of Clause 7 "Loyalty to the University and its Community": "not to diminish the name of the University's employee or student by your behavior."; in Paragraph 7.3: "To seek for favorable relationship based on mutual trust, tolerance, atmosphere of teamwork in the collective. Not to tolerate slander, gossip, insults, demonstration of negative emotions, escalation of irrelevant personal conflicts and intrusions, especially in cases where students or other members of the University Community suffer due to mutual antipathy or disagreement of the members of the Community."; in Paragraph 7.8: "Not to tolerate the cases that may be related to corruption, fraud, or attempt to unduly impact on a member of the University Community."; Paragraph 9.1 of Clause 9 "Academic Honesty of Teachers and Students" establishes "Not to diminish the name of a teacher or a student in violation of academic discipline."

In view of the foregoing and that the applicant did not specify in the complaint the specific staff of the LEU and their actions which allegedly infringed the provisions of the Code of Academic Ethics of the LEU referred to by the applicant, there is no justification for finding violations of the provisions of the Academic Ethics of the LEU.

3. Regarding the applicant's statement that the LEU violated Clause 3 of Chapter I and Clause 14 of Chapter II of the Code of Academic Ethics of the LEU "<...> contradicts to the MSĮ [the Law on Higher Education and Research] <...>. The administration and the student representation of the high school <...> appoint an equal number of authorized persons <...> to the dispute resolution commission.

The Commission of the LEU, in accordance with the Order No. 1-170 of the Rector of the LEU of 19 March 2015 "On Approval of the Ethics and Dispute Resolution Commission of the Lithuanian University of Educational Sciences" and the Resolution No. 377 of the Senate of the LEU of 18 March 2015 "On approval of the Ethics and Dispute Resolution Commission of the Lithuanian University of Educational Sciences", confirmed by the signature of the Chairperson of the Senate of the LEU Prof. Dr. Audronius Vilkas, consists of nine members. Moreover, the LEU has not provided the Ombudsman with a legal basis or other explanation of why the Commission consists of nine members.

Clause 3 of Part I of the Code of Academic Ethics of the LEU "General Provisions" establishes that "Each member of the University Community must follow this code of ethics in his/her activities."; Clause 14 of Part II "Formation, Functions and Work Organization of the Ethics and Dispute Resolution Commission" establishes that "The Commission consists of seven members, of which one member is delegated by the Student Representation. The members of the Commission are independent and participate in the Commission's activities following the Code of the Academic Ethics, other legal acts and inner conviction." and Clause 15 establishes that "The

composition and the chairperson of the Commission are approved by the Senate on the proposal of the Rector.” (underlined by us).

In view of the foregoing and the Ombudsman under his competence did not assess the possible violations of the procedures set out in the internal legal act of the LEU and other legal acts of the Republic of Lithuania, it can be stated that the Senate of the LEU, by approving the Commission of the LEU consisting of nine members by its Resolution No. 377 of 18 March 2015 “On approval of the Ethics and Dispute Resolution Commission of the Lithuanian University of Educational Sciences”, signed by the Chairperson of the Senate of the LEU Prof. Dr. Audronius Vilkas, has violated Clauses 3 and 14 of the Code of academic Ethics of the LEU.

After the evaluation of the information submitted by the applicant and the Lithuanian University of Educational Sciences as well as 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 Educational Sciences and the Ministry of Education and Science about the determined violation of the procedures of the senate of the Lithuanian University of Educational Sciences.

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

The Ombudsman for Academic Ethics and Procedures

Vigilijus Sadauskas