



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

### DECISION REGARDING THE NOTIFICATION OF R. B. OF 10 JANUARY 2017

15 June 2017, No. SP-17  
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 completing the investigation in accordance with the e-mail of R. B. of 10 January 2017 forwarded by the Committee on Education and Science of the Seimas of the Republic of Lithuania the notification about possible violations of academic ethics and procedures at Klaipėda University (hereinafter – KU),

#### **determined:**

By the e-mail of 10 January 2017, R. B. addressed to the Committee on Education and Science of the Seimas of the Republic of Lithuania, indicating that “the part of the Community of the Faculty of Humanities and Education Sciences of Klaipėda University <...> submitted the signed letter to the Council, the Senate, the Rector and the Ethics Commission of Klaipėda University, in which they set out their position on the appointment [of the Dean] of the Faculty of Humanities and Education Sciences under the Rector’s order for the second year in a row (see annex). On 05-01-2017, the Rector of KU sent the answer to the above-mentioned letter to the Council, the Senate, the Council of the Faculty of Humanities and Education Sciences, which shows that the Rector basically ignores the opinion of the persons signed the text of 19-12-2016. We would like to ask you to assess the current situation.”<sup>1</sup>R. B. attached the application of the Community of the Faculty of Humanities and Education Sciences of 12 December 2016. to the e-mail.

On 10 January 2017, the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter - the Office) received the anonymous referral without a signature and other personal data indicating that KU “Rector [E. J.] ends up completely damaging the university, the things that cannot be described are happening, people are fighting, the Rector himself does not follow even the minimum ethical standards of the head. He does not work as a Rector, he appears at work on a Tuesday afternoon, and on Thursday afternoon he disappears to Vilnius because he lives in Vilnius. All travel costs lie on the shoulders of the university <...>“ Together with the notification, the anonymous notifier provided the application to the Ramūnas

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<sup>1</sup> The language quoted here and hereinafter in the decision is unedited.

Karbauskis, Member of the Seimas of the Republic of Lithuania, and the application of the Community of the Faculty of Humanities and Education Sciences “Regarding the appointment of the Dean of the Faculty of Humanities and Education Sciences” to the Council of KU, the Senate of KU, the Rector of KU and the Ethics Commission of KU, in which he indicated the following:

“1. The selection for the position of the Dean of the Faculty of Humanities and Education Sciences announced on 27 September [2016] was not transparent and was carried out with the pre-deliberate gaps in the documents of KU regulating the appointment of Deans, in order to leave Prof. Dr. [I. B.] [as a Dean] of the Faculty at any cost.

1.1. Prof. Dr. I. [B.] did not submit the application to the Rector for participation in the election of the Dean of the Faculty <...>, i.e. he did use the opportunity to compete fairly and openly for the position of the Dean.

1.2. <...> it is likely that Prof. Dr. I. [B.] deliberately did not participate in the contest, because, in case of his failure to win, there would not be any possibility to appoint [him] [as a Dean] by the order of the Rector.

<...> 1.4. The two candidates who took part in the selection presented the necessary documents to the Personnel Division of KU, which were considered by the Qualification Commission of KU. The eligibility of candidates for all qualification requirements was determined. <...>

1.5. The members of the Community of the Faculty expected that the Rector, taking into account the HUMF Council rating, would present the candidacy of the candidate on the position of the Dean to the Senate. However, at the meeting of the Senate on 1 December [2016] this issue was not considered. <...> This position was [assigned] to Prof. Dr. I. [B.] who [has been] [the Dean] of HUMF for a year.

2. [The appointed] [Dean] does not have the professional and administrative competencies and personal qualities required for the head.

2.1. [The appointed] [Dean] is not able to coordinate and organize the science and studies processes at the Faculty <...>;

2.2. [The appointed] [Dean] exceeds the powers of the Dean: makes decisions on issues that are subject to the Faculty Council under the Statute of KU, for example the functions of the Council of the Faculty were violated by introducing new positions of the Vice-Dean and Development Coordinator <...>

2.3. [using] the privilege of his duties, he ignores the competition queue of the outgoing lecturers under the Erasmus+ and the administration staff under the Internship Program <...>;

2.4. <...> possibly violates Clause 11.1 of the Code of Academic Ethics of KU [by protecting] the persons who are important to him <...>;

2.5. <...> [the Dean] in addition to professional and administrative incompetence, also has the lack of personal qualities needed for the head <...>;

2.6. <...> uses a non-normative language, [he] is characterized by a change in mood, frequent violations of the dignity of members of the community. <...> Faculty, within the year of leadership [of the present] [Dean], almost lost the academic freedom, openness, collegiality, respect for each other and other values necessary for the academic community. The members of the Community of HUMF do not agree with the Rector’s choice and demand the rejection of the Order of the Rector of KU of 6 December [2016] on the appointment of I. [B.] [as a Dean].” The supporting documents for the referral were not attached.

At the meeting in the Office on 15 June 2017, R. B. confirmed that the anonymous notification was prepared and sent not by him.

*It needs to be noted that the Ombudsman did not examine the anonymous notification in accordance with the principles of legality, impartiality, fairness and publicity set forth in Part 8 of Article 17 of the Law on Higher education and Research.*

The Ombudsman, after getting acquainted with the information, by the letter No. S-69 of 13 February 2017 “Regarding the submission of the information”, addressed to KU, requesting to indicate and submit the following: 1) the legal acts regulating the procedure for the appointment of deans at Klaipėda University, the selection criteria; 2) the text of the announcement of the selection / contest announced on 27 September 2016 for the position of the Dean of the Faculty of Humanities and Education Sciences and the document on the basis of which the selection / contest was started; 3) the applications of the candidates for the position of the Dean of the Faculty of Humanities and Education Sciences together with all other documents submitted by the candidates; 4) the document, confirming the appointment of Prof. [I. B.] as [the Dean] of the Faculty.”

By the letter No. 5-188 of 17 February 2017 “Regarding the submission of the information”, KU submitted the requested information.

The Ombudsman by his letter No. S-152 of 5 April 2017 “Regarding the submission of the additional information”, addressed to the Rector of KU repeatedly, requesting to submit additional information: “<...> [in the protocol] of the meeting of the Qualification Commission of Klaipėda University of 11 November 2016 No. 52-2, <...>, that “Prof. Dr. [R. B.] and Prof. Dr. [R. B.] meet the qualification requirements for the position of the Dean of the Faculty of Humanities and Education Sciences”, however, the Order No. P-199 of the Rector of Klaipėda University “On the appointment of the Dean of the Faculty of Humanities and Education Sciences” of 6 December 2016 and the proposal No. (No. is not indicated) of the Rector of Klaipėda University of 6 December 2016 “On the appointment of the Dean of the Faculty of Humanities and Education Sciences”, indicate that the candidates are not subject to the approval of the Senate and the position of the position of the temporary Dean of the Faculty of Humanities and Education Sciences [is assigned to] Prof. [I. B.]. In view of the foregoing, please indicate the reasons why none of the candidates who met the requirements were not assigned to the position of Dean of the Faculty? Please indicate whether there is a procedure in Klaipėda University that sets criteria or otherwise regulates the failure to submit the bases for the approval of candidates who meet the requirements. If the above procedure is established, please submit it. 2) Please indicate whether there is a procedure in Klaipėda University that is formed on the competition queue of the outgoing lecturers under the Erasmus+ and the administration staff under the Internship Program, and submit the documents confirming that Prof. Dr. [I. B.] was [seconded] in accordance with the established internal procedure and queue. 3) Clause 2 of the Description of the Procedure for the Selection and Appointment of Heads of Departments and Heads of Divisions equivalent to Departments of Klaipėda University stipulates that “the Rector announces a selection for the positions of the heads of departments”. Professor [I. B.] pointed out that “the selection for the position of the Head of the European Languages Department was not announced”. In view of the foregoing, please indicate, on which basis Prof. Dr. [I. D.] was appointed as [the Head] of the European Languages Department”.

By the letter No. 5-248 of 11 April 2017 “Regarding the submission of the information”, the Rector of KU submitted the additional documents. In the letter No. 5-242 of 6 April 2017 “Regarding the submission of the additional information” explained that “By the Resolution No. 11-51 of the Senate of Klaipėda University of 5 April 2013 there is the approved procedure regulating the selection of the Deans of the faculties and their appointment to the positions. There is no separate procedure regulating the criteria or grounds for the approval of the Senate of submission or non-submission of candidates for the positions of the Deans of the Faculties. <...> Clauses 8.4-8.5 of the procedure approved by the Resolution No. 11-51 of the Senate of 5 April 2013 grant the right to the Rector to adopt the decision whether to submit the candidacy to the Senate or not. The aforementioned procedure does not regulate the criteria or other grounds of candidates’ non-submission for the approval of the Senate, the Rector is not required to indicate the reasons for not submitting candidates. <...> compliance with qualification requirements does not necessarily mean that a candidate must be appointed to the position of the Dean. <...> It needs to be emphasized that

the Dean is directly subordinated to the Rector and the Rector is given the right to form a subordinate team at his own discretion <...> Clause 8.5 of the aforementioned procedure provides for the Rector's right to appoint a temporary Dean for a period of not more than one year in the event that the Rector decides not to submit any candidacy for the approval of the Senate <...>".

Regarding the position of the Head of the European Languages Department, the Rector of KU indicated as follows: "Taking into account the fact that the temporary Dean was appointed to head the Faculty, the contest for the position of the Head of the Department was not published and in accordance with Part 3 of Article 101 of the Labor Code of the Republic of Lithuania, the Order No. P-712 of 30 August 2016, from 1 September 2016 until the contest, but no longer than until 31 August 2017, Prof. Dr. I. [D.] [was appointed as the Head] of the European Languages Department".

The following is indicated in the application to the Council of KU, the Senate of KU, the Rector of KU and the Ethics Commission of KU: The Dean of KU HUMF I. B. "[using] the privilege of his duties, he ignores the competition queue of the outgoing lecturers under the Erasmus+ and the administration staff under the Internship Program, and he went to various foreign higher education institutions several times a year [by himself]".

The information submitted to the Ombudsman by KU shows that I. B. under Erasmus+ went to the University of Ioannina in Greece for 8 days, to the St. Cyril and St. Methodius University of Veliko Tarnovo in Bulgaria for 9 days, to Suceava in Romania for 4 days. Together with the letter No. 5-248 of KU of 11 April 2017 "Regarding the documents were submitted, one of which if the letter No. 49-HU-110 of the Dean of KU HUMF of 20 June 2016 to the Rector "Regarding ERASMUS+ mobility program". The said letter lists the lecturers proposed for 2016-2017 in a priority order. The attention is drawn to the fact that the Dean I. B. was not proposed. he is included into the list as being "in reserve". It should be noted that the letter specifies 3 persons in autumn and 3 persons in spring semesters, a total of 6 persons, and a reserve of 4 persons. according to the orders submitted to the Ombudsman regarding the missions of I. B. under ERASMUS+ program, it is known that the Dean went to missions 3 times in 2016.

The Ombudsman by his letter No. S-70 of 13 February 2017 "Regarding the submission of the information", the Ombudsman addressed to the Dean of KU HUMF I. B., requesting the following:

"1) to indicate what positions and on what grounds you, as the [Dean] of the Faculty of Humanities and Education Sciences of Klaipėda University, have approved. To enclose the confirming documents; 2) to specify on what grounds the position of the Vice-Dean and Development Coordinator was "introduced"; <...> 4) to submit the legal acts regulating the procedures for appointment of the Heads of the Departments and to indicate the criteria for the appointment; 5) to indicate the names, surnames and posts of the candidates for the position of the Head of the European Languages Department; 6) to indicate the criteria which were followed in appointment of Prof. Dr. I. [D.] as [the Head] of the Department."

By the letter of 13 March 2017 "Regarding the submission of the information, I. B. submitted the requested documents and explanations to the provided questions and indicated that "[being] [the Dean] of HUMF of Klaipėda University 1. I did not approve any positions. I would like to draw your attention to the fact that the Dean of the Klaipėda University cannot approve the positions because he has no authority. The positions of the staff of KU are approved by the Rector. 2. [Being] [the Dean] of HUMF of Klaipėda University, I did not "introduce" the positions of the Vice-Dean and Development Coordinator. I was [appointed] as the [Dean] of KU on 2 January 2016. Changes in the academic structure of faculties (Humanities and Pedagogy) have been implemented since 1 January 2016 by the Resolutions of the Council of KU (No. 9N-57 of 15-05-2015, No. 9N-63 of 04-11-2015) and by the Order of the Rector "On the academic Structure of Klaipėda University" (No. 1-035 of 16-11-2015, the copy of the Order is attached). When I have started to work [as the Dean], the said positions had already been "introduced" on 30 December

2015 by the Order No. 9-237 of the Rector “On Changing the List of Posts” (the extract of the Order is attached). <...> 6. Prof. Dr. I. [D.] even before the structural changes was [elected] [as the Head] of the Department. <...>.” In his reply to the Ombudsman’s request, I. B. also indicated that “from 14 March 2017 I will no longer serve as the Dean on my personal request” and submitted all the documents requested by the Ombudsman.

By the letter No. S-154 of 7 April 2017 “Regarding the submission of the additional information”, the Ombudsman addressed to I. B. requesting as follows: “1. Given the fact that you have been in the position of the Dean of the Faculty of Humanities and Education Sciences before the announcement of the selection, i.e. 26 September 2016, and on 6 December 2016 by the Order of the Rector of Klaipėda University you were [appointed as a temporary Dean of the Faculty of Humanities and Education Sciences], to indicate the reasons why did not you submit the documents and application to participate in the selection to the position of the Dean of the Faculty of Humanities and Education Sciences? 2. Given the fact that the staff of the Department of English and German Philology submitted a request to cancel Prof. Dr. I. [D.] from the position [of the Head] due to his unprofessional and unethical leadership, to indicate, who can apply for the removal of the Heads and what legal act regulates the procedure of removal of the Heads in Klaipėda University, also to submit a duly certified copy of the response given to the staff of the Department of English and German Philology, and, if no such response has been prepared, provide explanations as to why no response has been prepared.”

By the letter of 16 May 2017, I. B., answering to the request of the Ombudsman, indicated that “1) I adopted the decision not to participate in the selection for the position [of the Dean] of the Faculty of Humanities and Education Sciences, because the faculty and the university began a defamatory company against me, involving not only employees but also students. 2) the staff of the Department of English and German Philology did not address to me regarding the cancellation [of the Professor] I. [D.] from the position [of the Head]. On 15-12-2015 the part of the staff addressed to the Rector and the Dean [of HUMF] R. [B.] (please find attached the copy of the letter). This letter was answered on 18-12-2015 by Vice-Rector for Infrastructure and Development, substituting Rector S. [G.] (please find attached the copy of the letter). I have started to work [as a temporary Dean] of Klaipėda University from 02-01-2016 <...>”.

By the letter No. 258 of 25 May 2017 “regarding the submission of the additional information”, the ombudsman addressed to the Rector of KU: 1) “taking into account the fact that on 12 December 2016 the members of the Community of the Faculty of Humanities and Education Sciences submitted the application “Regarding the appointment of the Dean of the Faculty of Humanities and Education Sciences” to the Council of KU, the Senate of KU, the Rector of KU and the Ethics Commission of KU (received by KU on 19-12-2016, reg. No. G-010), I would like to ask you to provide the information related to the examination of the said application and the adopted decisions in relevant institutions <...>.”

In response to the request, by the letter No. 5-287 of 30 May 2017 “Regarding the submission of the additional information, the Rector of KU indicated: “1. Regarding the application of 12 December 2016 “Regarding the appointment of the Dean of the Faculty of Humanities and Education Sciences” <...> the application <...> of 12 December 2016 did not specify the addressee to whom the answer could be given. Due to this reason, by the letter of 5 January 2017, I provided my opinion to the Council of the Faculty of Humanities and Education Sciences (the copy is attached). Also there were organized the meeting of the Community of the Faculty of Humanities and Education Sciences, the separate meeting with the students, during which we discussed the mentioned issues. At the meeting of 5 January 2017, the Ethics Commission of Klaipėda University decided that the procedures of the appointment of the Dean of HUMF do not contradict to the procedures provided in the Statute of KU and in the Order No. 11-61 of the Senate (the copy of the extract of the minutes is attached) <...>.”

*In accordance with Part 1 of Article 17 of the law on Higher Education and Research which entered into force on 1 January 2017: The Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania “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”, and taking into account the circumstances of the notification, the Ombudsman did not assess the possible violations of the procedures established in the internal legal acts of KU and other legal acts of the Republic of Lithuania.*

On 25 May 2017, the rapporteur of the Rector of KU Indrė Puškorienė sent the message to the e-mail of the Office: “Good afternoon, maybe you can help prepare one more reasonable response to unreasonable letter LRAEPK? 1. The response was prepared (please find attached) and the meeting with HUMF was organized during which the situation was discussed <...>”. (underlined by us). The content of the message shows that it was addressed not to the Ombudsman but to the employee of KU.

Part 1 of Article 17 of the Law on Higher Education and Science establishes that the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania “examines complaints, reports and conducts 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”. (underlined by us).

*In view of the foregoing and in accordance with Clause 22 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“, the Ombudsman, in promoting the self-regulation of the ethics of the institution of science and studies, forwards the circumstances related to the possible violation of the academic ethics of the rapporteur of the Rector of KU Indrė Puškorienė to the Academic Ethics Committee of KU for examination.*

*After the analysis and evaluation of the circumstances of the notification and received information and in accordance with Part 1 of Article 17 of the Law on Education and Studies, 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 academic ethics and procedures established in the Code of Academic Ethics of the KU.*

*It should be noted that all members of the academic community, recognizing and upholding the values of academic ethics, established in Part 2 of Article 4 of the Law on Education and Science “Academic ethics is a set of universally recognized values that ensure the transparency, honesty, justice of the science and study process, equality, non-discrimination, responsibility of persons involved in this process, sustainable use of resources, academic freedom, impartiality, trust, respect of the assessment of research and study works and protection of intellectual property.”, should responsibly disseminate information about other members of the academic community.*

After the evaluation of the notification of R. B. of 10 January 2017 forwarded by the Committee on Education and Science of the Seimas of the Republic of Lithuania, the information

submitted by KU, the legal regulation, and in accordance with Clause 1 of Part 11 of Article 17 of the Law on Higher Education and Science of the Republic of Lithuania, the Ombudsman

**decided:**

To inform Klaipėda University 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.

The Ombudsman for Academic Ethics and Procedures

Vigilijus Sadauskas