



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

**DECISION  
ON THE VIOLATION OF ACADEMIC ETHICS AND PROCEDURES AT THE DEPARTMENT  
OF ECONOMICS OF ŠIAULIAI UNIVERSITY**

28 September 2018 No SP-10

Vilnius

Following paragraph 1 of Article 17 of the Republic of Lithuania Law on Higher Education and Research and subparagraph 1 of paragraph 13 of the Statute 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 “On the Establishment of the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania and the Approval of the Statute of the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania” and having initiated an investigation according to 31 July 2018 notification of R. B. (hereinafter referred to as the “Applicant”) <sup>1</sup> concerning possible violations of academic ethics and procedures at Šiauliai University (hereinafter referred to as the “ŠU”), the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter referred to as the “Ombudsman”)

**has determined the following:**

The Applicant addressed the Ombudsman for “possible violations of academic ethics and procedures in conducting of competitions for the positions of two associate professors and one lecturer at the Department of Economics of [ŠU]<sup>2,3</sup> specifying the following information in the notification:

*“1. Regarding the participation in the competition for the position of the associate professor.*

I participated in the competition for the position of the associate professor of the Department of Economics published on 1 March 2018 by [ŠU] (0.5 post). The Council of Academic Affairs of [ŠU] published the results of the competition on 6 June 2018. I was [familiarised] with the Resolution <...> of the Commission for Attestation and Admission of the Lecturers and Researchers of Šiauliai University (hereinafter referred to as the “ŠU CAALR”). I have found any evaluation criteria neither in the afore-mentioned decision nor in any other decision of the ŠU CAALR or evaluation of my pedagogical and research activities carried out according to such criteria on the basis of which a decision was adopted by the Commission. The afore-mentioned evaluation criteria are also not defined in the Regulations on Attestation of Lecturers and Researchers and Competitions for the Positions of ŠU <...>. I addressed ŠU CAALR orally but have not received any explanation. Please

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<sup>1</sup> For the purposes of the text of the decision of the Ombudsman, the “Applicant” is given a noun of masculine gender without linking it to the sex of the applicant.

<sup>2</sup> Remarks of the Office are made in square brackets.

<sup>3</sup> Here and hereinafter the quoted language has not been corrected.

help me to find out on what basis (evaluation criteria etc.) a person fit for the position of the associate professor [at ŠU] is elected in the competition. Don't the results breach the European Charter for Researchers and on a Code of Conduct for the Recruitment of Researchers and the Code of Ethics of [ŠU] due to transparency of selection of the candidates for the positions if no evaluation criteria are established?

*2. Regarding provision of research articles for the competition of the position.*

a) During the period from 1 March 2018 to 6 June 2018, three competitions for the position of two associate professors and one lecturer of the Department of Economics of [ŠU] were simultaneously carried out. Three [applicants who participated] in the competition <...> provided four research articles published in the material of international conferences and the journal *Social Research (Socialiniai tyrimai)* in the descriptions of the research activities (the number of the co-authors of each article is 5) each of which was indicated by [each applicant] as copyright work without specifying own input in it <...>. Please explain if such attribution of authorship of the articles does not contradict the provisions of Article 7 of the Law on Copyright and Related Rights <...>, since the won position for which the competition was held is directly related to the possibility to earn income or higher income.

b) the information provided in the research article <...> provided by three applicants for the afore-mentioned competitions is a part of the joint research carried out by the authors <...>. The information provided in the afore-mentioned article insignificantly differs from the review of literature provided in the article earlier prepared by the same authors <...>. Doesn't such artificial breakdown of the research and replication of the research material constitute a violation of academic ethics?

*3. Regarding possible discrimination of the employees of the departments of [ŠU] in competitions for the positions.*

Applications for the competitions for the positions of two associate professors and one lecturer of the Department of Economics of [ŠU] published during the period from 1 March 2018 to 6 June 2018 were submitted by [the applicants] working in different structural units of [ŠU]. Accounting of working time in the afore-mentioned units is different. Pedagogical work and related activities make 70 per cent of working time of the employees of the Department of Economics <...> and only 30 per cent of working time is allocated to research work. The working time of the [employee] of the Research Institute <...> is distributed differently, i.e. 100 per cent of the working time is allocated for research work. The afore-mentioned activities are the main activities of researchers; therefore, in the course of performance of the activities regulated by the position the afore-mentioned employees have the possibility to prepare more research products than the employees working only in the department. During the competition procedures, the ŠU CAALR did not specify the evaluation criteria; nevertheless, according to the chairman <...>, in the competitions for holding the positions only the research work, i.e. only the articles printed in foreign scientific journals, is evaluated. For this reason, only the employees working in the department are in a less favourable position in competitions for the position (even in the same department) than the employees of the Research Institute of ŠU. Doesn't such discrimination of the employees of departments constitute a violation of academic ethics and procedure? Doesn't such procedure for conducting the competitions for the position breach the principle of equal rights to take part in competitions defined in subparagraph 2 of paragraph 3 of Article 60 of the Republic of Lithuania Law on Higher Education and Research and paragraph 2 of Article 66 of the <Statute> of [ŠU] <...>?

***Paragraph 1 of Article 17 of the Law on Higher Education and Research provides for that the Ombudsman shall be a state officer who examines complaints, notifications and, on his own initiative, conducts investigations regarding the violation of academic ethics and procedures; therefore, he carried out the investigation and adopted this Decision only within the competence established in the law.***

Having evaluated the contents of the notification, the Ombudsman initiated an investigation and by 7 August 2018 letter No Nr. S-192 addressed ŠU with the request “to provide the notices of the notices of the competitions for the positions of the associate professors and lecturers of the Department of Economics of Šiauliai University <...> and documents of the applicants who nominated themselves as the candidates; the minutes of discussions; bulletins; minutes of the meetings in which the successful applicants were recognised and the decisions provided by the Commission for Attestation and Admission of the Lecturers and Researchers of ŠU to the Rector.” By 16 August 2018 letter No S-835-(1.4), 17 August 2018 letter No S-846-(1.4), 20 August 2018 letter No S-847-(1.4) and 10 September 2018 e-mail ŠU provided information.

*Regarding the competition for the position of the associate professor*

The provided information suggests that on 1 March 2018 two competitions for the position of the associate professor of the Department of Economics were published specifying in the notice that “scientific methodological work must meet the requirements for the position of the associate professor set forth in the Regulations on Attestation of Lecturers and Researchers and Competitions for the Positions of ŠU [hereinafter referred to as the “Regulations on Competitions”]. Preparation of significant research articles corresponding to the priority scientific direction of the Department of Economics <...> and publication thereof in the Lithuanian and foreign periodical and continuous publications are included in the list approved by the Department of Education. Priority is given to scientific publications in the databases *Clarivate Analytics Web oh Science* and *Scopus*. Taking part in international scientific conferences, scientific placements and scientific exchange programmes, outsourced researched. Organisation of scientific and practical conferences. Preparation and implementation of applications for scientific projects. Participation in preparation and improvement of study programmes”. The time limit for submission of applications for the competitions was till 4 May 2018.

Three applicants including the Applicant provided applications and other documents for the competitions. The meeting of the Department of Economics took place on 8 May 2018. During the meeting the rapporteur notified of the published competitions, familiarised with the requirements for the competitions pointing out that “scientific publications in the databases *Clarivate Analytics Web oh Science* and *Scopus*, taking part in international scientific conferences, scientific placements and scientific exchange programmes, outsourced researches, organisation of scientific and practical conferences, preparation and implementation of applications for the scientific projects, participation in preparation and improvement of the study programmes constitute the priority.” The minutes of the meeting suggests that all applicants who took part in the competitions met the minimum qualification requirements for the positions of the lecturers and researches set forth in paragraphs 44.2, 44.3, 44.4 of the Regulations on Competitions. 18 ballot papers were prepared for voting, 14 ballot papers were distributed. After secret ballot, 7 votes “for” the Applicant were cast, 10 and 12 votes “for” were cast for the other two applicants. It was decided “not to elect” the Applicant, a decision to “elect” the other two applicants for the position of associate professors was taken.

The meeting of the ŠU CAALR took place on 6 June 2018. During the meeting it was decided that the Applicant met the minimum qualification requirements for the position of the associate professor. When considering the issue concerning election of lecturers to the positions for which the competition was published, the chairman of the Commission notified that the Applicant provided all documents necessary for the competitions and “read the decision of the minutes of the meeting of the Department of Economics in which it was recommended not to elect [the Applicant] to the position of the associate professor for which a competition was published (0.5 post). It should be emphasised that one person of two [applicants] must be selected for the position of the associate professor for which a competition was published.” After the secret ballot, it was decided not to elect the Applicant.

The Regulations on Competitions provide for that “10. A notice of competition shall be published on the websites of [ŠU] and the Research Council of Lithuania. The public notice of competition must describe the nature of the future work. 11. The candidates to the position to which they are elected shall furnish the Service of Administrative Affairs with the following documents and electronic copy thereof till the date set in the notice of competition <...>: 11.1. application for the permission to take part in the competition in the name of the Rector; 11.2. the lists of published scientific works approved by the Director of the Science and Art Service (general list and the list for the last five years) <...>; 11.4. the list of academic activities for the last five years <...>; 11.5. the filled in card of evaluation of the conformity with the requirements of the competition <...>; 11.6. reprints of the most significant publications for the last five years, books, other publications; 11.7. copies of the diploma of Master’s degree or equivalent higher education degree, diplomas of scientific degrees, certificates of academic titles; 11.8. certificate of the level of knowledge of the specialty language (not applicable to the persons applying to the position of the researcher); 11.9. certificate of the length of pedagogical or scientific work in the higher education and/or research institution; 11.10. curriculum vitae; 11.11. additional documents describing the candidate’s scientific, pedagogical activities or qualification (at the candidate’s discretion). 12. The Service of Administrative Affairs shall forward the documents of the candidates to departments within two working days from the date indicated in the notice of competition <...>. 13. Having received the documents of the applicants for the competition, the departments <...> shall organise a public meeting (seminar) of the unit within 10 working days. 14. All candidates to one position for which they are elected must participate in the joint discussion held at the meeting (seminar) of the department <...> in which at least one member of the ŠU CAALR (Commission) must be present. During the joint discussion all applicants shall familiarise the participants of the meeting with the results of their research works <...>, the courses of the lectures which are delivered or to be delivered, issued training and methodological material and other academic activities. 15. During the discussion the following information concerning the applicants shall be considered: 15.1. topics of the research work <...> which is developed or to be developed, relevance, originality and international level; 15.2. conformity of the topic of the research work which is developed and to be developed <...> with the directions of the science or art study activities of the unit; 15.3. pedagogical competence, current or planned work load, its links with research activities; 15.4. prospects for improvement of scientific <...>, methodological work and qualification improvement. 15. Minutes of the discussion shall be taken. The conclusion on each applicant taking into account the requirements of paragraph 15 shall be recorded in the minutes of the meeting. The documents of the candidates with an extract from the minutes of the meeting of the department <...> shall be returned to the Service of Administrative Affairs not later than within 5 working days from the meeting of the department <...>. The Service of Administrative Affairs shall

forward the documents of the candidates to the Chairman of the ŠU CAALR (Commission) within two working days. 17. The ŠU CAALR (Commission) shall organise election at the first meeting from the date of provision of documents. <...> 18. Having examined the documents of each applicant and having familiarised with an extract from the minutes of the meeting of the department <...>, during the meeting the ŠU CAALR (Commission) shall: 18.1. evaluate if the performance indicators of the applicant meet the minimum qualification requirements for the position the applicant seeks to hold <...>; 18.2. elect the person who shall hold the position from the positively evaluated participants in the competition by secret ballot; <...> 19. The applicant who gets more than a half of votes of the members of the ŠU CAALR (Commission) present at the meeting in the valid ballots shall be recognised as the successful applicant”.<sup>4</sup>

Paragraph 2.5 of the Code of Ethics of ŠU provides for that “the relationship between the members of the community of [ŠU] shall be based on the principles of respect, good faith, objectivity and equal treatment”. Subparagraph 2 of Article 66 of the Statute of ŠU and subparagraph 2 of paragraph 2 of Article 60 of the LHER guarantee “equal rights to take part in competitions” for the academic community. Article 3 of the LHER sets forth that higher education shall be based on the principles of academic ethics, equal opportunities, fair competition and other principles. Article 4 of the LHER provides for that academic ethics shall mean the generally recognised values ensuring transparency, good faith, fairness of higher education and research process, equality, non-discrimination, responsibility of the persons involved in the process <...>, academic freedom, <...> trust, respect as a whole.”

The minutes of the meeting of the Department of Economic which took place on 8 May 2018 suggests that all applicants met the minimum qualification requirements. During the meeting the applicants introduced themselves, they were asked questions; thus, a *discussion* took place as provided for in the Regulations on Competitions after which the participants decided on the candidates who should be elected and the candidates who should not be elected by secret ballot. Although the *discussion* took place, the minutes does not clearly suggest how and what requirements set out in paragraph 15 of the Regulations on Competitions each applicant met; therefore, it should be believed that the taken decision “to elect” or “not to elect” cannot correspond to the result sought by the “conclusion”. It should be noted that the decisions taken at the meeting of the Department of Economics are based not on well-reasoned statements but on the results of secret ballot; thus, not on objective evaluation criteria but on subjective belief of the evaluating persons; therefore, this is incompatible with the competition organisation and conducting procedure which should be associated with the principles of publicity, rule of law, liability and responsibility to the public, equal rights to take part in competitions, fair competition, objectivity, justice and transparency.

*When organising competitions a higher education and research institution shall ensure implementation of the afore-mentioned principles. Only evaluation of the applicants which is based on the provisions of legal acts, competent, objective, fair and transparent presupposes reasonable, objective, fair and transparent evaluation results and ensuring of the mission of higher education and research defined in the preamble to the LHER “<...> to satisfy the natural thirst for knowledge. The Lithuanian policy on higher education and research guarantees the quality of higher education and research, equal access to higher education for all citizens and favourable conditions for the best of them to conduct their research, and to seek academic and creative development <...>”.*

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<sup>4</sup> Here and hereinafter underlined by us.

In the given case, the Regulations on Competitions provide for the requirements for the candidates but the criteria for evaluation of such requirements have not been established. As there is no sufficient legal regulation establishing objective evaluation criteria, the voting at the meeting of the Department of Economics held on 8 May 2018 was determined only by one criterion, i.e. discussion, other criteria were not evaluated and taken into account. During the meeting of the Department of Economics the candidates were only elected or not elected but no reasoned conclusion, i.e. statement on the candidate of each applicant to the position of the associate professor derived from other statements, was formed. Such practice should be considered as faulty practice in implementation of the principles of objectivity, equal rights to take part in competitions and fair competition and practice presupposing adoption of ungrounded and non-objective decisions of the members who voted.

***In the light of the above and the fact that during 8 May 2018 meeting of the Department of Economics a discussion was held after which the persons present at the meeting elected the candidates for the position of the associate professor by secret ballot and no conclusion on each applicant was formed in 8 May 2018 minutes No EEK-2-6 of the meeting of the Department of Economics, following the requirements of paragraph 15 of the Regulations on Competitions, it should be stated that the competition procedure for the position of the associate professor of the Department of Economics was conducted in breach of paragraph 16 of the Regulations on Competitions.***

***Considering that, in the case in question, the Applicant's request "to oblige [ŠU] to annul the decisions of the ŠU CAALR contrary to academic ethics and procedures" is, in principle, related to the established faulty practice of organisation of competitions and insufficient regulation at ŠU should be dismissed. Nevertheless, in pursuance of ensuring proper implementation of the principles of objectivity, fairness, transparency, publicity, fair competition, liability and responsibility to the public and equal rights to take part in competitions and avoiding possible violations of procedures, it should be recommended to the procedure for and form of drawing of conclusions on fitness of each candidate to the position based on clear evaluation criteria.***

*Regarding evaluation of the input in the research works*

The information provided to the Ombudsman suggests that neither the Regulations on Competitions nor any other internal legal act of ŠU provide for the procedure under which the research work prepared individually and the work prepared with co-authors should be evaluated.

Article 3 of the LHER sets forth the principles of freedom of creation and research and cooperation of members of the academic community. The Lithuanian higher education and research policy guarantees the quality of higher education and research, integration in the area of international researches and higher education. In the time of global society, it is necessary to ensure mobility of scientists and academic freedom. Scientific mobility is necessary for ensuring the quality of education and competitiveness in the world. Thus, cooperation among members of the academic community is a phenomenon which should be achieved and promoted; however, it should be noted that for the purposes of organising competitions during attestations it is necessary to take into account and properly ensure implementation of the principles of equal rights and fair competition.

In the given case, it has been determined that the candidates provided Cards of Evaluation of the Conformity with the Requirements of the Competition (hereinafter referred to as the "Evaluation Questionnaire"). The evaluation questionnaires reveal information on scientific articles, scientific

monographs, scientific studies, textbooks. Nevertheless, the input of the candidate as the author in the research work in numerical terms is not indicated.

***In the light of the above, it should be concluded that the practice established by ŠU is faulty; therefore, it should be changed. In pursuance of ensuring adoption of an objective, just and transparent decision, it should be recommended to regulate the criteria for evaluation of compliance with the requirements and during the candidate evaluation procedure take into account the researcher's input in the research work.***

*Regarding breakdown of the research and replication of the research material*

The Applicant in his notification stated that the “information provided in the research article <...> provided by three applicants for the afore-mentioned competitions is a part of the joint research carried out by the authors <...>”. The information provided in the afore-mentioned article insignificantly differs from the review of literature provided in the article earlier prepared by the same authors <...> and the articles mentioned in the notification were provided.

The Office addressed the authors of the article. One of the authors provided explanations stating that “the articles mentioned by you are not identical, the set objectives and contents are different; therefore, this should not be deemed to be equivalent to a violation of academic ethics. [The authors] worked with <...> the project under which a voluminous research was carried out. At first sight the publications covered by the project activities may seem similar due to the similarities of the used terms but they cover separate parts of the broad and deep research which are not interrelated, since different aspects of the object being analysed are considered. Reports in the international scientific conferences in the Czech Republic (<...> the budget expenditure evaluation aspect with more developed econometric calculations was presented) and Hungary (the integrating conceptual model which covers both income and expenses in theoretical terms was presented) were delivered on the basis of the afore-mentioned articles. The theoretical conceptual model and the results obtained on the basis of econometric calculations (models) could not be fall within the requirements for the scope of preparation of articles.”

It should be noted that the similarity of the review of literature *per se* cannot imply artificial breakdown of the research and replication of the research material. The provided articles suggest that they were adapted and published as separate reports in scientific conferences in different foreign countries. After comparison of the articles, individual literal coincidences have been established. It should be pointed out that the reports were prepared on the basis of the same research and should be associated with publicity of researches.

***In the light of the above, the data for finding of violations of academic ethics is not sufficient.***

*Regarding possible discrimination of the employees of the departments of [ŠU] in competitions*

In the given case, the Department of Economics published competitions for the vacant positions stating in the notices that “*scientific methodological work must meet the requirements for the position of the associate professor set forth in the Regulations on Attestation of Lecturers and Researchers and Competitions for the Positions of ŠU [hereinafter referred to as the “Regulations on Competitions”]. Preparation of significant research articles corresponding to the priority scientific direction of the Department of Economics <...> and publication thereof in the Lithuanian and foreign periodical and continuous publications are included in the list approved by the*

*Department of Education. Priority is given to scientific publications in the databases Clarivate Analytics Web of Science and Scopus. Taking part in international scientific conferences, scientific placements and scientific exchange programmes, outsourced researched. Organisation of scientific and practical conferences. Preparation and implementation of applications for scientific projects. Participation in preparation and improvement of study programmes”.* Analogous text as the priority requirement was repeatedly mentioned at the meeting of the Department of Economics which took place on 8 May 2018.

The circumstances provided by the Applicant suggest that, in the given case, the candidates of two different units have different conditions for creation of scientific products and fulfilment of the priority requirements. Nevertheless, it is to be noted that the Lithuanian higher education and research policy guarantees the quality of higher education and research and the conditions for the best ones to carry out research work; therefore, there are no reasons for believing that such priority direction and requirements in competitions may discriminate other candidates. All candidates seeking to take part in the competition and meeting the minimum qualification requirements are entitled to nominate themselves as candidates irrespective of the unit of ŠU in which they work.

Discrimination means restriction of the rights of anyone, deprivation of equal treatment<sup>5</sup>. The provided information does not suggest that the candidates’ rights were restricted due to the set requirements. On the contrary, it should be considered that creation of exceptional conditions for the employees of the Department of Economics would violate equal rights of the candidates (from other units or other higher education and research institutions) to take part in the competition.

***In the light of the above, the data for finding violations of academic ethics is not sufficient.***

Having analysed and evaluated the provided information and the supporting documents and legal regulation and following subparagraphs 1 and 6 of paragraph 11 of Article 17 of the Republic of Lithuania Law on Higher Education and Research, the Ombudsman

**has decided the following:**

1. To notify the Applicant, Šiauliai University, the Ministry of Education and Science of the Republic of Lithuania of the committed violation of procedures.
2. To recommend to establish the criteria for evaluation of conformity of the candidates with the requirements, competition organisation procedures and the procedure for and form of drawing of conclusions on fitness of each candidate to the position based on clear evaluation criteria
3. In pursuance of avoiding infringements of the principles of objectivity, fairness, transparency, publicity, fair competition, liability and responsibility to the public and equal rights to take part in competitions, it should be recommended to establish points meeting the criteria for evaluation of the candidates for the position of researchers by attributing the numerical value to each of the criterion (e.g. per cent, points etc.).

The decision of the Ombudsman may be appealed against in accordance with the procedure prescribed in the Republic of Lithuania Law on Administrative Proceedings.

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<sup>5</sup> Dictionary of the Lithuanian Language. [available at: <http://www.lkz.lt/Visas.asp?zodis=diskriminacija&lns=-1&les=-1>]. Accessed on 21 September 2018.



Ombudsperson for Children's Rights

Acting Ombudsman for Academic Ethics and Procedures

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