



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

**DECISION
ON THE NOTIFICATION OF 2 JULY 2018**

25 October 2018 No SP-11

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 2 July 2018 notification of R. B. (hereinafter referred to as the “Applicant”)¹ concerning possible conflict of interest of the members of the Commission for Attestation and Admission of the Lecturers and Researchers of Šiauliai University (hereinafter referred to as the “ŠU CAALR”) (hereinafter referred to as the “Notification”), 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 Commission for Attestation and Admission of the Lecturers and Researchers of Šiauliai University (hereinafter referred to as “Šiauliai University”) with the Notification concerning possible conflict of interest of the members of the ŠU CAALR. By the Notification the Applicant requests “by find out if academic ethics and procedures were not violated if two employees of the Research Institute in some controlling relationship, i.e. [the director] of the institute prof. dr. [D. C.] and the researcher assoc. prof. dr. G. V., where in another commission of the University [ŠU CAALR] they are in reverse controlling employment relationship. Assoc. prof. dr. [G. V.] is the Chairman of the afore-mentioned commission and prof. dr. [D. C.] is [a member] of the commission. Please find out if the Chairman of [ŠU CAALR] may make unbiased decisions on the possibility for his [manager] in another unit of the university (the Research Institute) to hold the position for which the competition was published or award of an academic title [to him] without giving rise to a conflict of interest? Can [ŠU CAALR] make unbiased decisions on holding of positions in competitions in respect of employees of another university if such conflict of interest exists (if it is believed that such conflict exists)?

Following paragraph 5.8 of the Code of Ethics of ŠU which provides for that “the Commission shall not examine <...> notifications or information concerning possible violations of procedures in

¹ 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.

the higher education and research institution”, Commission of Ethics of Employees and Students of ŠU forwarded the Notification to the Ombudsman.

Having evaluated the content of the Notification, the Ombudsman initiated an investigation and by 17 July 2018 letter No S-168 addressed the Applicant with the Request to provide additional information, i.e. detail the fact and provide the supporting documents. In response to the enquiry, by 21 July 2018 e-mail the Applicant provided additional information specifying that “when on 21 Marc 2018 [the Director] of the Research Institute of [ŠU] prof. dr. [D. C.] became [a member of the ŠU CAALR] <...>:

1) in March-April 2018, he was appointed to the position of the chief researcher of the Human Welfare Research Centre of the Research Institute of ŠU <...>.

2) in April 2018, he was appointed to the position of the professor of the Department of Economics (0.5 post) <...>.

3) on 16 May 2018, he was awarded an academic title in social sciences <...>.”

By 17 July 2018 letter No S-169 the Ombudsman addressed ŠU with the request to provide the legal acts regulating the activities of the Commission for Attestation and Admission of the Lecturers and Researchers of Šiauliai University. By 24 July 2018 letter No S-817-(1.4) ŠU provided the requested information.

By 7 August 2018 letter No S-194 the Ombudsman addressed ŠU with the request to provide the following additional information: the decision of the Senate whereby the Commission for Attestation and Admission of the Lecturers and Researchers which acted in March/April 2018 was approved; the notice of publication of the competition in which prof. dr. [D. C.] won the competition for the position of the chief researcher of the Human Welfare Research Centre of the Research Institute of [ŠU] (March/April 2018) and the documents of the applicants who nominated themselves as candidates; the minutes of the discussion; ballots; minutes of the meeting in which he was recognised as the successful applicant and the decision provided to the Rector; the documents related to award of the academic title of professor to prof. dr. [D. C.]: requests submitted to the Service of Administrative Affairs, the department and the Senate of [ŠU] including all documents attached thereto. By 20 August 2018 letter No S-850-(1.4) and 10 September 2018 e-mail ŠU provided the requested information.

By 16 October 2018 letter No S-235 the ombudsman addressed G. V. with the request to provide explanations why he who was an employee of the Research institute of ŠU and held the position of the Chairman of the ŠU CAALR did not disqualify himself from the issues related to the career of D. C. On 17 September 2018, G. V. provided the explanations.

The opting out procedure is not regulated by the Regulations on Attestation of Lecturers and Researchers and Competitions for the Positions of ŠU (hereinafter referred to as the “Regulations of ŠU CAALR”).

Paragraph 2.2.4 of the Code of Ethics of ŠU provides for that members of the community shall be obliged to “avoid a conflict of interest by opting out from consideration or adoption of decisions where the issue of financing, career of the person, his family member or another related person, imposition of penalties or providing incentives is dealt with. For the purposes of paragraph 1.5.8, the conflict of interest shall mean “a situation where the person fulfilling his duties or a transfer must take a decision on whether to be present when adopting it or fulfil the assignment related to any his private interests.”

The provided information suggests that on 13 December 2017 a competition for the position of the chief researcher of the Human Welfare Research Centre of the Research Institute of ŠU was published. On 13 February 2018, a meeting of researchers of the Research Institute of ŠU took place and during the meeting the following two issues were considered: 1) the issue concerning conformity of the academic activities of prof. dr. D. C. with the position of the chief researcher and 2) the application for the competition for the position of the chief researcher of the Human Welfare Research Centre of the Research Institute of ŠU. The voting result was as follows: “for” – 21 votes, “against”, “abstained” and “withdrawn” – 0 votes. It has been decided to recommend to the ŠU CAALR to attest prof. D. C. for the position of the chief researcher. When considering the issue of the agenda concerning application for the competition, 18 persons voted “for”, 3 persons voted “against”, 0 persons “abstained”. It was decided to recommend to the ŠU CAALR to elect dr. D. C. to the position of the chief researcher of the Human Welfare Research Centre for which the competition was launched,

On 7 March 2018, a meeting of the ŠU CAALR was held and its minutes suggests that assoc. prof. dr. G. V. presented the documents concerning the fitness for the position of the chief researcher of the Human Welfare Research Centre prepared by D. C. and reviewed the scientific products and academic activities of D. C. The commission read the decision of the minutes of the meeting of the Research Institute recommending to attest D. C. for the position of the chief researcher and found that D. C. meets the requirements for the position. The voting results were as follows: “for” 10 votes, “against” and “abstained” – 0 votes. It was decided to elect D. C. for the position of the chief researcher of the Human Welfare Research Centre.

On 13 February 2018, a meeting of the Department of Economics was held and during the meeting the issue concerning attestation of prof. D. C. for the position of the lecturer of the Department of Economics was considered. The scientific and pedagogical activities were presented, a discussion was held at the meeting. After the discussion, 16 ballots were distributed. D. C. disqualified himself from voting. The voting results were as follows: “for” – 16 votes, “against” and “abstained” – 0 votes. It was decided to recommend to the ŠU CAALR to attest dr. D. C. for the position of the professor of the Department of Economics.

On 7 March 2018, a meeting of the ŠU CAALR took place, the minutes of the meeting suggests that assoc. prof. dr. G. V. presented the documents concerning fitness for the position of the professor prepared by D. C. The commission read the decision of the minutes of the meeting of the Department of Economics recommending to attest D. C. for the position of the professor and stated that D. C. meets the requirements for the position. The voting results were as follows: “for” 10 votes, “against” and “abstained” – 0 votes. It was decided to elect D. C. for the position of the professor of the Department of Economics.

On 26 April 2018, D. C. submitted to the Senate of ŠU 20 April 2018 request “Concerning the Award of the Academic Title of Professor” by attaching an extract from the meeting of the Department of Economics concerning the recommendation for award of the academic title of professor, a copy of the attestation signed by the ŠU CAALR, the card for evaluation of the fitness for the position of the professor and other documents.

The minutes of the meeting of the ŠU CAALR suggests that on 7 March 2018 a meeting of the Commission took place. During the meeting assoc. prof. dr. G. V. presented the documents concerning fitness for the position of the professor prepared by D. C. and reviewed the scientific

products and academic activities of D. C. and it was determined that D. C. met the requirements for the position. The voting results were as follows: “for” – 10 votes, “against” and “abstained” – 0 votes. It was decided to positively assess fitness of D. C. for the position of the professor.

The minutes of the meeting of the Department of Economics which took place on 24 April 2018 suggests that the issue concerning the recommendation to the Senate of ŠU to award the academic title to prof. dr. D. C. was considered. During the meeting the persons present were familiarised with the request of D. C. and other documents for obtaining the academic title of professor. D. C. presented the results of his scientific and methodical activities, familiarised with his scientific and pedagogical activities, a discussion took place. The voting results were as follows: “for” the recommendation – 13 votes, “against” the recommendation and “abstained” – 0 votes. It was decided to recommend to the Senate of ŠU to award the academic title of professor of social sciences to prof. dr. D. C from the Department of Economics.

G. V. in his explanations stated that “<...> in March–June 2018 I worked at the Research Institute of ŠU as the researcher at the Centre of Physical and Technological Sciences (0.1 post). As of 1 July 2018, I do not work at the Research Institute of ŠU (the 2-year contract has expired). Paragraph 2.2.4 of the Code of Ethics of ŠU provides for that members of the community of ŠU shall be obliged to “avoid a conflict of interest by opting out from consideration or adoption of decisions where the issue of financing, career of the person, his family member or another related person, imposition of penalties or providing incentives is dealt with.” As I fully understand the significance of the ethical rules, when voting for [D. C.] I did not see any conflict of interest related to the issues of financing, career of the person, imposition of penalties or providing incentives. In recent years my work load at the Research Institute constantly decreased due to other (project) activities and there are no reasons for stating my alleged partiality because I did not disqualify myself from the issues related to the career. It is to be noted that fitness of [D. C.] for the position of the professor and the chief researcher was positively evaluated by all 10 members of the ŠU CAALR present at the meeting. Furthermore, [D. C.] was [the only applicant] to the position of the professor of the Department of Economics and the chief researcher of the Human Welfare Research Centre [D. C.] (he was unanimously [elected] to the position).”

In the light of the voting results which suggest that the ŠU CAALR voted unanimously and the explanations provided by G. V. which suggest that he worked at the Research Institute of ŠU (0.1 post) the head of which was D. C., several months from the voting, upon expiry of the fixed-term employment contract, the employment relationship between D. C. and G. V. at the Research Institute of ŠU expired, other data confirming that G. V. had personal benefit or documents evidencing personal interests of G. V. in the career of D. C. have not been determined; therefore, there are no grounds for finding violations of academic ethics by G. V.

It is to be noted that the Regulations of the ŠU CAALR nor any other document regulating the internal rules of procedure of ŠU set forth the grounds and procedure for opting out of the members of the Commission. In pursuance of ensuring proper implementation of the principles of objectivity, fairness, transparency, publicity, fair competition, liability and responsibility to the public and avoiding possible violations of academic ethics in the future, to should be recommended to establish the grounds and procedure for opting out of the members of the ŠU CAALR.

Having analysed and evaluated the provided information and the supporting documents and legal regulation and following subparagraph 10 of paragraph 11 of Article 17 of the Republic of Lithuania Law on Higher Education and Research, the Ombudsman

has decided the following:

To declare the notification ungrounded.

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

Ombudsperson for Children's Rights

Acting Ombudsman for Academic Ethics and Procedures

Edita Žiobienė