



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

**DECISION  
ON THE COMPLAINTS OF T. G. OF 17 MAY 2018, 11 JULY 2018 AND 14 SEPTEMBER  
2018**

25 October 2018 No SP-13  
Vilnius

Following paragraph 1 of Article 17 of the Republic of Lithuania Law on Higher Education and Research (LHER) 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 examined the complaints of T. G. (hereinafter referred to as the “Applicant”<sup>1</sup>) concerning possible violations of academic ethics and procedures at the Lithuanian University of Educational Sciences (hereinafter referred to as the “LUES”) (hereinafter referred to as the “Complaints”) received by received by the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter referred to as the “Office”) on 17 May 2018 and 11 July 2018 and the Applicant’s complaint concerning possible violations of procedures at the LUES forwarded by the Equal Opportunities Ombudsperson received on 14 September 2018, 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 Office in his Complaints stating that:

1. The employee of the LUES published the results of the examination by the common e-mail address without his consent; thus, humiliating him before his fellow students, lecturers, the academic community of the LUES and other persons entitled to read letters received by the afore-mentioned e-mail address. According to the Applicant, such action of the employee of the LUES violates academic ethics.

2. The Commission of Academic Ethics of the LUES (hereinafter referred to as the “CAE”) examine disputes in a non-objective, biased and incompetent manner. According to the Applicant, “formation of the CAE is possibly unlawful, ungrounded and contrary to the LHER”, the regulations of the CAE are possible ungrounded and possibly unlawful”.

3. The appeal commission formed by 30 January 2017 order of the Rector of the LUES (hereinafter referred to as the “appeal commission”) which examined the Applicant’s application for evaluation of the subject *Logics* and adopted a decision unfavourable to the Applicant, “has failed to ensure objectivity”, “adopted the decision without hearing [the Applicant’s] arguments”, “possibly [worked] under the order not established and approved by the management bodies of [the LUES]”, “the composition of the appeal composition is ungrounded”.

The provided information suggests that the Applicant does not accept the decisions of the CAE and the appeal commission raising the issue of lawfulness of the decisions.

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

4. The employee of the LUES misused his power by forcing the Applicant to sign legally binding documents the contents of which is false”.

5. On 14 June 2018, the employee of the LUES unreasonably refused to carry out the examination of the subject *Philosophy History (Middle Ages)*.

According to the Applicant, during the examination of the subject *Philosophy History (Middle Ages)* held on 18 June 2018 the employee of the LUES harassed him and assessed his personal features, such behaviour of the employee of the LUES is contrary to academic ethics.

6. The employee of the LUES did not give to the Applicant three days for preparation for retaking of the examination of the subject *Logics*. According to the Applicant, after retaking of the examination of the subject *Logics*, the employee of the LUES “was dissatisfied with the fulfilled tasks and further harassed him. the Applicant asked “did the administration of [the LUES] have the right to determine failure of the examination? <...> Could [the employee of the LUES] request me to take the examination of the subject *Logics* held on 18 June 2018?”

The Ombudsman addressed the employee of the LUES with the request to provide information related to the students’ consent to publication of the grade of the examination of the subject *Logics*, contact details of the afore-mentioned students and other possibly related information.

The employee of the LUES provided the requested explanations and information by e-mail.

The Ombudsman addressed the LUES with the request to explain the circumstances related to possible pressure on the Applicant to sign 9 May 2018 order of the Dean of the LUES and provide all information and documents related to the appeal commission of the LUES formed for examination of the Applicant’s request for grade given for the subject *Logics* and other related information.

The LUES provided explanations, requested information and supporting documents.

The Ombudsman addressed all students and the Applicant who studied the subject *Logics* in the academic year 2017–2018 with the request to specify if the employee of the LUES notified them of the method of presentation of the results of the examination, i.e. by the common e-mail addressed, if at that time all students were present and if any students objected to such method of presentation of the results.

Only the Applicant provided the requested information; therefore, the Ombudsman repeatedly addressed the students who have not responded about provision of information; however, the students have failed to provide the information till the date of adoption of the decision.

The employee of the LUES provided explanations about the examination of the subject *Philosophy History (Middle Ages)* have not taken place on 14 June 2018.

Having analysed and evaluated the information provided by the Applicant, the LUES, the employee of the LUES and the Equal Opportunities Ombudsperson, legal regulation and following paragraph 1 of Article 17 of the LHER providing 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”, the Ombudsman has determined the following:

***Regarding the lawfulness and objectivity of the CAE and the appeal commission***

The Applicant has pointed out that possibly the CAE and the regulations of the CAE are unlawful and legally ungrounded and provided the documents supporting formation of the CAE and publication of the regulations of the CAE.

The Applicant has not provided any data on the basis of which non-objectivity, impartiality or incompetence of the CAE could be established.

The annexes provided by the Applicant suggest that the composition of the CAE was determined and approved by 22 November 2017 Resolution No 543 of the Senate of the LUES “On the Approval of the Commission of Academic Ethics of [the LUES]” and 23 November 2017 Order No 1-558 of the Rector of the LUES “On the Approval of the Commission of Academic Ethics of [the LUES]”. The Regulations of the CAR were approved by 22 November 2017 Resolution No 539 of the Senate of the LUES “On the Approval of the Regulations of the Commission of Academic Ethics of [the LUES]” and 23 November 2017 Order No 1-554 of the Rector of the LUES “On the Approval of the Regulations of the Commission of Academic Ethics of [the LUES]”.

Subparagraph 3 of paragraph 41 of the Statute<sup>2</sup> of the LUES provides for that the Senate “shall approve the internal academic quality assurance system and control implementation thereof”.

Subparagraph 2 of paragraph 54 of the Statute of the LUES provides for that the rector “shall issue orders”.

Subparagraph 1 of paragraph 2 of Article 29 of the version of the LHER valid from 1 August 2017 to 29 December 2017 sets forth that the rector shall “head a higher education institution, organise the activities of a higher education institution ensuring the implementation of a strategic action plan”, subparagraph 12 shall provide for that the rector shall “approve the internal rules of procedure of a higher education institution”. In principle, the Regulations of the CAE shall be internal rules of procedure by its purpose.

Chapter V “Supervision of the Code of Academic Ethics” of the Recommendations for the Adoption, Implementation and Supervision of the Codes of Academic Ethics of Higher Education and Research Institutions of the Ombudsman<sup>3</sup> describes how higher education and research institutions are recommended to ensure compliance with the code of academic ethics. Paragraph 28.1 states that “supervision of the code shall be carried out by the committee of academic ethics in accordance with the provisions of the code and the legal act regulating its activities”.

***In the light of the above and all circumstances indicated to the Office and evaluated by the Ombudsman, there are no legal grounds for finding that the CAE and approval of the Regulations of the CAE are ungrounded.***

The Applicant has failed to provide any data on the basis of which the non-objectivity and incompetence of the appeal commission could be established.

According to the Applicant, the composition of the Appeal Commission is ungrounded, possibly the appeal commission worked under the procedure not approved by the management bodies of the LUES, adopted the decision without hearing the Applicant.

30 January 2018 Order No 1-62 of the Rector “On the Formation of the Appeal Commission for Examination of the Grade of the Study Subject Logics of [the Applicant]” suggests that the appeal commission consisted of 4 members including 3 members who were lecturers of philosophy and 1 student from the student representative office.

Chapter XI “Lodging and Examination of Appeals” of the Description of the Procedure for Assessment and Entry of the Results of the Studies at the LUES approved by 18 December 2013 December 18 Resolution No 279 of the Senate of the LUES “On the Approval of the Description of the Procedure for Assessment and Entry of the Results of the Studies at the LUES” provides for the procedure for lodging of appeals and the rules of procedure of the appeal commissions. It is to be noted that the appeal commissions are not obliged to repeatedly hear the person who has lodged an appeal.

Paragraph 108 of the same Description provides for that the “appeal commission shall consist of 3–5 members. Lecturers in the field within which which the study subject falls, a representative of the student representative office shall be elected as members of the Commission”.

***In the light of the above and all circumstances indicated to the Office and evaluated by the Ombudsman, there are no legal grounds for finding that the composition of the appeal commission is ungrounded and its activities are not regulated.***

#### ***Regarding the publicity of the results of the examination***

The Applicant has stated that the employee of the LUES humiliated him before his fellow students, lecturers, the academic community of the LUES and other persons entitled to read letters received by the afore-mentioned e-mail address when he sent the results of the examination of the subject *Logics* by the afore-mentioned e-mail address; thus, possibly violating academic ethics.

<sup>2</sup> Approved by Resolution No XI-2406 of the Seimas of the Republic of Lithuania of 8 November 2012 “On the Amendment of Appendixes 1 and 2 to the Resolution of the Seimas of the Republic of Lithuania “On the Change of the Name of Vilnius Pedagogical University and Approval of the Status of the Lithuanian University of Educational Sciences””.

<sup>3</sup> Approved by Order No V-16 of the Ombudsman of 15 March 2015.

The information provided by the Applicant suggests that the Applicant addressed the CAE for the afore-mentioned possible violation of academic ethics committed by the employee of the LUES. During 26 April 2018 meeting, the CAE considered the Applicant's application for the afore-mentioned possible violation of academic ethics by the employee of the CAE. Following the extract from 5 February 2018 minutes No 1 of the meeting of the appeal commission and the decision thereof, the CAE has determined that "before sending the results of the examination" the employee of the LUES "asked if they [the students] would not object to sending of the results of the examination by [e-]mail. No one has objected". The appeal commission has determined that "no procedural violations which could have a substantial impact on the final grade of the subject *Logics* were found".

26 April 2018 minutes No 6 of the meeting of the CAE suggests that the Applicant's complaint concerning the afore-mentioned actions of the employee of the LUES is ungrounded.

The employee of the LUES indicated to the Office, just like to the appeal commission, that the students including the Applicant were asked for their permission to sending of the results by the e-mail address. No student objected to such method of publication of the results.

The Applicant notified the Office specifying that "as far as I remember, only I attended the lectures in an exemplary manner, I <...> did not miss any lecture <...> Other attended the lectures inconsistently <...> I don't think that after such a period of time which has passed, information may be provided in an objective and precise manner", thus, confirming that no person who was present at the lectures could objectively and precisely indicate the afore-mentioned circumstances of the events.

No data that the Applicant objected to sending of the results has been established. The Office has not received any additional information from other students till the date of adoption of the decision.

Paragraph 6.5 of the Code of Academic Ethics of the LUES<sup>4</sup> provides for that, for the purposes of observing the ethical principle "respect to human dignity, fostering of equal rights and opportunities", "<...> confidential information on the private life, remuneration, academic evaluation of the members of the community, penalties, results of the scientific work, career intentions should not be published if no special grounds exist <...>".

Paragraph 15 of the Description of the Procedure for Assessment and Entry of the Results of the Studies at the LUES provides for that "the assessor shall publish the assessment results only with the consent of all students. If at least one student objects to publication of the assessment of the students, the assessment results shall be published anonymously."

It is to be noted that the Applicant does not accept and question the decisions of the CAE and the decisions of the appeal commission by raising the issue of lawfulness of the CAE and the appeal commission.

In the given case, the appeal commission has determined that the employee of the LUES has not committed any procedural violations. No grounds for doubting as to lawfulness of the appeal commission have been established. The CAE adopted the decision that the Applicant's complaint is ungrounded on the basis of the decision of the appeal commission. No grounds for doubting about the lawfulness of the CAE and the Regulations of the CAE have been established.

***In the light of the fact that no reason for doubting about the decision of the CAE has been established, no new information on the afore-mentioned possible violation of ethics has been provided and/or received, there are no grounds for finding a violation of academic ethics committed by the employee of the LUES.***

#### ***Regarding forcing to sign the documents***

The Applicant has pointed out that the employee of the LUES unreasonably forced him to sign the order the content of which was false and which was binding. The Applicant has also stated: I was forced to carry out possibly unlawful actions. I was frightened. I was threatened to receive punishment." The Applicant has not provided other information and/or documents supporting the fact

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<sup>4</sup> Approved by Resolution No 540 of the Senate of the LUES of 22 November 2017 "On the Amendment of the Code of Ethics of [the LUES]".

of forcing the Applicant to sign the documents and the fact of non-conformity of the contents to reality.

The annex provided by the Applicant, i.e. 9 May 2018 Order No U1159 of the Dean of the LUES “On the Written Explanation of [the Applicant]”, states that, according to 24 April 2018 Decision No 06-R4-357 of the CAE, the Applicant violated academic ethics and is requested to provide a written explanation about the actions violating academic ethics as established.

The LUES has explained that the “afore-mentioned order <...> was provided to [the Applicant] for familiarisation so that [the Applicant] would provide a written explanation about the violation of academic ethics found by the Commission of Academic Ethics and Procedures of the LUES. <...> In response to the violation of academic ethics possibly committed by [the Applicant] and following paragraph 49 of the Description of the Procedure for Studies of the LUES <...>, the Faculty of Education of the LUES had to thoroughly examine the circumstances of the violation and to this end obtain an explanation from the [Applicant]. <...> [The Applicant] has refused to confirm in writing that he has familiarised himself with the order <...>, presentation of the direction to [the Applicant] cannot be considered as pressure, since this is a part of thorough investigation into possible violation of academic ethics <...>, the necessary for such explanation is provided for in [the Description of the Procedure for Studies of the LUES]. In the afore-mentioned case, no unlawful pressure was exerted on [the Applicant].”

Paragraph 49 of the Description of the Procedure for Studies of the LUES provides for that “penalties for non-fulfilment of the duties and breaches of the internal rules of procedure on students and attendees shall be imposed by the Rector or the dean of the faculty. A proposal for imposition of a penalty may be put forward by a lecturer, the head of the department or the head of a unit of the University. Before imposing a penalty, all circumstances must be examined and a written explanation of the student must be obtained”.

***In the light of the fact that the employee of the LUES had reason to request the Applicant to familiarise with the document and provide his explanation, no circumstances evidencing the fact of pressure on the Applicant to sign the afore-mentioned order have been established, there exist no grounds for finding a violation of academic ethics.***

#### ***Regarding the examinations of the subject Philosophy History (Middle Ages)***

According to the Applicant, the employee of the LUES has unreasonably refused to take the examination of the subject *Philosophy History (Middle Ages)*, the Applicant was obliged to repeatedly carry out the credit test tasks and another date and time of the examination were set for him.

The grade of the LUES subject *Philosophy History (Middle Ages)* in 19 June 2018 certificate concerning studies provided by the Applicant is 5 (pass). The annexes provided by the Applicant suggest that the Applicant provided interim works to the employee of the LUES by 22 May 2018 e-mail and repeatedly carried out works were provided on 17 June 2018 at 19:22 (also by e-mail).

The employee of the LUES has explained that the Applicant has not fulfilled the interim tasks of the afore-mentioned subject, provided a work not according to the assignment formulated by the lecturer instead of such interim tasks; therefore, the Applicant was not authorised to take the afore-mentioned examination. When the Applicant provided fulfilled interim tasks, he was allowed to take the examination.

According to the Applicant, during the examination of the subject *Philosophy History (Middle Ages)* held on 18 June 2018 the employee of the LUES harassed him, made remarks related to his Latin pronunciation and assessed his personal features. The Applicant has noted that assessment of the achievements in the Latin language is not subject to the description of the study subject; therefore, in his opinion, such behaviour of the employee of the LUES is contrary to academic ethics.

The audio record provided by the Applicant shows that the employee of the LUES made a recommendation concerning use of the Latin language in examinations. No data that the employee of the LUES considered the Latin pronunciation of the Applicant and personal features of the Applicant has been established.

Paragraph 15 of the Description of the Procedure for Assessment and Entry of the Results of the Studies at the LUES provides for that the “assessor must assess the student’s study results and refrain from any remarks related to the disposition or personality of the student”.

Paragraph 6.7 of the Code of Academic Ethics of the LUES sets forth “not to request for personal information from the student and not to associate such information with assessment of knowledge”.

***In the light of the fact that the Applicant was allowed to take the examination after fulfilment of the established requirements, there is no data evidencing that the employee of the LUES assessed the Applicant according to his personal features, the grounds for finding violations of academic ethics and procedures do not exist.***

***Regarding the retaking of the examination of the subject Logics***

According to the Applicant, the employee of the LUES did not give three days to him for preparation of retaking of the examination of the subject *Logics* and offered to take the examination *Philosophy History (Middle Ages)* on 18 June 2018.

The audio record provided by the Applicant makes it clear that the employee of the LUES took into account the willingness to take the examinations as soon as possible as confirmed by the Applicant and obtained the Applicant’s confirmation that the latter was preparing for the examinations of both subjects and offered to the Applicant to retake the examination of the subject *Logics* on 18 June 2018 and asked the Applicant about the subject with which he would like to start with. The Applicant expressed his willingness to start with the subject *Philosophy History (Middle Ages)*. The provided audio record contains no data evidencing the Applicant’s refusal or disagreement with the proposal of the employee of the LUES to retake the examination of the subject *Logics* on 18 June 2018.

The Applicant has pointed out that after retaking of the examination of the subject *Logics* the employee of the LUES “expressed his willingness <...> to calculate everything in accounting terms” and for the amount of EUR 19 assessed the work as equal to grade 5 <...>.” The Applicant asked if the administration of the LUES and the employee of the LUES had the right “to request me to take the examination of the subject *Logics* held on 18 June 2018”

18 June 2018 payment order provided by the Applicant suggests that the payment was made from the Applicant’s account to the account of the LUES.

5 February 2018 minutes No 1 of the meeting of the appeal commission provided by the LUES states that the employee of the LUES indicated that the “the activities of the Applicant during the lectures and the examination taken by the Applicant were evaluated at grade 3, <...> when the student appeared for retaking the examination for the second time, he refused to draw theoretical questions and declared that he would like to take the examination from the whole material.”

The provided information suggests that on 23 January 2018 the assessment of the Applicant’s knowledge of the subject *Logics* was calculated on the basis of the results of the second examination (i.e. retaken examination).

According to the information provided by the Applicant, he took and passed the examination of the subject *Logics* on 1 June 2018, i.e. on his third attempt, upon expiry of the session of the first semester 2017-2018.

Paragraph 87 of the Description of the Procedure for Assessment and Entry of the Results of the Studies at the LUES provides for that “a student who fails in an examination shall be entitled to retake the examination till the end of the session provided for in the academic calendar or till the end of the extended session.”

***In the light of the above and the fact that the Applicant used the possibility to retake the examination of the subject Logics free of charge provided to him, no grounds for stating that the administration of the LUES and the employee of the LUES unlawfully requested to pay for retaking of the examination were established.***

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 complaints 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