



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

**DECISION
ON THE COMPLAINT OF A. S. OF 24 SEPTEMBER 2018**

6 November 2018 No SP-14

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 examined the complaint of A. S. (hereinafter referred to as the “Applicant”¹) concerning possible violations of procedures at the College² received by the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter referred to as the “Office”) on 24 September 2018, the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter referred to as the “Ombudsman”)

has determined the following:

By 24 September 2018 complaint the Applicant addressed the Ombudsman for possible violations of procedures at the College in conducting of the competition for the position of the director of the College initiated on 28 August 2018. The Applicant have pointed out that the documents provided by the applicants to the College had some shortcomings: the applicants have failed to provide the documents supporting their managerial and pedagogical experience indicated in the curricula vitae, have failed to specify their relationship with legal persons in the declaration of good repute and disclosure of the conflicts of interest. The Applicant has noted that the Academic Council of the College had to evaluate the conformity of the applicants with the requirements negatively and dismiss the applicants’ candidacies. The Applicant requests the Ombudsman to examine if the competition for the position of the director of the College initiated on 28 August 2018 was conducted without breaching the procedures established for in the Description of the Procedure for Organisation of the Public Competition for the Position of the Director of the College and Appointment of the Director (hereinafter referred to as the “Description”).

By 2 October 2018 letter No S-229 “Regarding the Provision of Information” the Ombudsman addressed the College with the request for information on the competition for the position of the

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.

² The data of the higher education and research institutions and persons related to the object of the complaint is sensitive.

director of the College published on 28 August 2018, the list of participants of the competition, the documents provided by the applicants and a copy of the Description.

By 12 October 2018 letter No V10-325 “Regarding the Provision of Information” the College has pointed out that by 28 August 2018 protocol decision No T-44 of the Council of the College a competition for the position of the director of the College was published. Three applicants provided documents for participation in the competition. The College provided the documents received from the applicants, 17 September 2018 certificate of transfer and acceptance of documents of the applicants No T-47, 21 September 2018 minutes No AT-44 of the meeting of the Academic Council, 21 September 2018 decision No AT-45 of the Academic Council “Regarding the Fitness of the Candidates to the Position of the Director of [the College]” and the Description approved by 30 January 2018 decision No T-2 of the Council of the College (version of 5 April 2018 decision No T-17 of the Council of the College, version of 25 June 2018 decision No T-33 of the Council of the College).

As is clear from 17 September 2018 certificate of transfer and acceptance of documents of the applicants No T-47, the College carried out primary verification of documents provided by the applicants and on 17 September 2017 the documents were transferred to the Academic Council. The certificate of transfer and acceptance of documents states that three applicants provided main documents requested according to the Description.

The documents provided to the College by the applicants suggest that:

1) *Applicant A* in his curriculum vitae indicated 23 activities related to pedagogical experience and 48 activities related to management experience. He furnished the College with 31 documents including 17 documents related to participation of *Applicant A* in conferences and delivery of reports by *Applicant A*. The curriculum vitae of *Applicant A* and other documents provided to the College also suggest that *Applicant A* was the director of the College for two terms. *Applicant A* indicated the relationship with one legal person in the declaration of good repute and disclosure of the conflicts of interest;

2) *Applicant B* in his curriculum vitae indicated 3 activities related to pedagogical experience and 5 activities related to management experience. To support his pedagogical and management experience, *Applicant B* furnished the College with two documents which suggest that in 2008 *Applicant B* was transferred to the position of the dean of the Faculty of the College. *Applicant B* indicated the relationship with five legal persons in the declaration of good repute and disclosure of the conflicts of interest;

3) *Applicant C* in his curriculum vitae indicated 2 activities related to pedagogical experience and 8 activities related to management experience and provided 7 documents evidencing that *Applicant C* has carried out pedagogical work since 2015 and held the manager’s position since 2003. *Applicant C* did not indicate any relationship with legal persons in the declaration of good repute and disclosure of the conflicts of interest.

21 September 2018 minutes No AT-44 of the meeting of the Academic Council suggests that fitness of the applicants for the position of the director of the College was considered during the meeting. During the meeting a remark was made that the documents provided by the applicants have some shortcomings: “the applicants had to provide copies of the documents supporting the managerial and pedagogical experience of the applicants but all applicants have failed to do this. <...> The applicants incorrectly indicated data in their declarations of good repute and disclosure of the conflicts of interest without specifying relationship with legal persons if such relationship was established 5 years before the date of submission of the declaration.” During the meeting the members of the

Academic Council requested the applicants to provide explanations on possibly incorrectly completed declarations of good repute and disclosure of the conflicts of interest. The applicants acknowledged the shortcomings of their declarations. Later on, during the meeting of the Academic Council voting procedure was initiated. The Academic Council evaluated the candidacy of *Applicant A* as inappropriate for the position of the director of the College, *Applicants B* and *C* were evaluated as meeting the requirements for the applicants to the position of the director provided for in the Description.

The Description of the College provides for that:

“2. The Applicants to the position of the director of the College <...> shall be subject to the following requirements: 2.1. education: university Master degree or equivalent degree (doctoral degree would be an advantage) and at least 5 (five) years of management and pedagogical experience) <...>; 2.5. good repute <...>.

9. The Applicants <...> must provide the following documents: 9.1. application for the Competition <...>; 9.5. the Applicant’s curriculum vitae (CV) according to the form approved by the Council of the College which would reveal the management and pedagogical experience and copies of the supporting documents <...>; 9.7. the Applicant’s declaration of good repute and disclosure of the conflicts of interest filled in according to the form approved by the Council of the College <...>.

11. The person appointed by the Council of the College shall register the provided envelope with the application documents in the Register of Applicants, carry out verification of the documents provided by the Applicants and record their conformity with the requirements set out in paragraph 9 of the Description in the register of documents <...>.

17. The members of the Academic Council of the College shall familiarise themselves with the documents provided by the Applicants, assess the conformity of the Applicants with the requirements of Section II, the Applicant’s management and pedagogical experience of the Applicant according to the provided application documents not later than within 2 (two) working days from the date of transfer of the documents <...>.

18. The Chairman of the Academic Council shall organise a meeting of the Academic Council during which the Academic Council shall consider and adopt proposals not later than within five working days from the date of receipt of all documents of the Applicants. In pursuance of evaluating the Applicants in an as objective manner as possible, the Applicants shall be invited to the meeting to introduce themselves.”

In the light of the fact that verification of the documents provided by the applicants to the position of the director was carried out and conformity of the documents with the requirements set forth in paragraph 9 of the Description was assessed by the College and during 21 September 2018 meeting the Academic Council of the College established the shortcomings of the documents provided by the applicants during 21 September 2018 meeting, there are no reasons for believing that conformity of the applicants with the requirements established in the Description was assessed in a non-objective manner and finding of the violations of the procedure for election of the director of the College established in the Description.

It is to be noted that public and private interests in the civil service are adjusted, impartiality of the decisions being taken is secured in accordance with the Republic of Lithuania Law on the Adjustment of Public and Private Interests in the Civil Service. Paragraph 2 of Article 3 of the Law

provides for that “persons who apply for work and work in the civil service <...> shall be obliged to declare private interests”. Subparagraph 2 of paragraph 1 of the same article sets forth that the persons who apply for work, work and worked in the civil service must “avoid conflict of interest in accordance with the procedure and measures laid down by legal acts, and act in such a way as to avoid suspicions about the existence of such a conflict”.

In the light of the fact that the persons who have furnished the College with applications for the competition for the position of the director have failed to specify their relationship with legal persons in their declaration of good repute and disclosure of the conflicts of interest, the Ombudsmen, within his competence, forwards the collected information to the Chief Official Ethics Commission.

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 complaint 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