



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

**DECISION
ON THE COMPLAINT OF Ž. M. OF 12 FEBRUARY 2018**

25 May 2018 No SP-3
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 Ž. M. (hereinafter referred to as the “Applicant”)¹ concerning possible violations of academic ethics at the Institute² received on 12 February 2018 by the Office of the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter referred to as the “Office”), the Ombudsman for Academic Ethics and Procedures of the Republic of Lithuania (hereinafter referred to as the “Ombudsman”)

has determined the following:

By 12 February 2018 complaint the Applicant applied to the Ombudsman with the request to evaluate the actions of the director and administrative personnel drawing up documents of the Institute in relation to provision of possibly invalid documents to the Ombudsman. The Applicant has pointed out that the employees of the Institute possibly “sough[³]t to mislead the Ombudsman” and on 8 March 2017 and 1 September 2017 furnished the Ombudsman with copies of the Description of the Procedure for Approval of the Publications of the Institute” (hereinafter referred to as the “Description”) the content of which is different and “establishes completely different procedure for approval of publications including the procedure for selection of reviewers”.

On 12 February 2018, the Applicant also furnished the Ombudsman with the notice “Regarding possible violations of academic ethics [in the Institute]” related to 12 February 2018 complaint pointing out that the copies of the Description provided to the Ombudsman are related to 19 May 2017 Decision No SP-14 of the Ombudsman “On the Complaint of Ž. M. of 14 February 2017” and 28 November 2017 Decision No SP-25 “On the Complaint of Ž. M. of 11 August 2017 and the Complaint of I. B. of 22 August 2017”. In the light of the above, the Applicant expressed doubts as to lawfulness and reasonableness of 28 November 2017 Decision No SP-25 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.

³ Remarks of the Office are made in the square brackets.

Ombudsman and requested to “resume [examination] of the complaint on which on 2[8] November 2017 the [Ombudsman] adopted decision No SP-25.”

By 1 March 2018 letter No S-62 the Ombudsman, taking into account the fact that the contents of the copies of the Description of the Institute received by 8 March 2017 letter No (1.8) S-72 and 1 September 2017 letter No (1.8) S-282 differs, forwarded the material related to possible forgery of documents to the Prosecutor General’s Office of the Republic of Lithuania requesting to draw a conclusion on possible forgery of documents.

By 9 March 2018 letter No IBPS-S-120279 “Regarding Examination of Request No AP-6080” Vilnius District Prosecutor’s Office of Vilnius Regional Prosecutor’s Office (hereinafter referred to as the “Prosecutor’s Office”) notified the Ombudsman that on 9 March 2018 the Prosecutor’s Office “examined the [Ombudsman’s] request on opening of a pre-trial investigation into forgery of documents and the decision on refusal to open a pre-trial investigation was adopted”. The decision on refusal to open a pre-trial investigation suggests that when examining the Ombudsman’s request the Prosecutor’s Office has determined that “as for the documents dated 8 March 2017 provided to the [Ombudsman], the [Description] without the corrections approved and made by the [Institute] at the meeting of the Research Council was sent by mistake <...>. The final version of the Description (with the corrections made by the decision of the Research Council of the [Institute]) approved by 20 December 2011 Decision No 10 of the Research Council of the Institute <...> was attached to the letter provided to the [Ombudsman] on 1 September 2017. In the light of the information provided by the [Ombudsman] and the Institute and enclosed documents, it should be concluded that no criminal act has been committed.”

It is to be noted that the Description of the Statute was provided to the Ombudsman in examination of the complaints related to 19 May 2017 Decision No SP-14 “On the Complaint of Ž. M. of 14 February 2017” and 28 November 2017 Decision No SP-25 “On the Complaint of Ž. M. of 11 August 2017 and the Complaint of I. B. of 22 August 2017”. In the course of examination of the complaint related to 19 May 2017 Decision No SP-14 by the Ombudsman, by 8 March 2017 letter No (1.8) S-72 the Description without the corrections approved and made at 20 December 2011 meeting of the Research Council of the Institute was provided, but when preparing the decision, the Description was not relevant.

In examination of the complaints related to 28 November 2017 Decision No SP-25 “On the Complaint of Ž. M. of 11 August 2017 and the Complaint of I. B. of 22 August 2017” by the Ombudsman, the final version of the Description provided to the Ombudsman by 1 September 2017 letter No (1.8) S-282 was taken into account.

In the light of the above, it is evident that the Ombudsman’s decisions took no account of the Description without the corrections approved and made at 20 December 2011 meeting of the Research Council of the Institute provided by 8 March 2017 letter No (1.8) S-72.

It is to be noted that, according to paragraph 1 of Article 18 of the Law on Higher Education and Research valid till 1 January 2017 providing for that “the Ombudsman for Academic Ethics and Procedures <...> shall be a state officer who examines complaints and initiates investigations regarding the violation of academic ethics and procedures”, the Ombudsman was conferred with the powers to examine complaints and initiate investigations into all procedures, i.e. not only the procedures provided for in the codes of ethical ethics of higher education and research institutions. Pursuant to paragraph 1 of Article 17 of the Law on Higher Education and Research valid since 1

January 2017 “the Ombudsman for Academic Ethics and Procedures <...> shall be a state officer who examines complaints, notifications and, on his own initiative, conducts investigations regarding the violation of academic ethics and procedures approved by the codes of academic ethic of higher education and research institutions”. Therefore, according to the competence established in the Law on Higher Education and Research, the Ombudsman cannot examine and evaluate possible violations of the procedures not provided for in the codes of academic ethic of higher education and research institutions, thus, when examining complaints, he cannot assess the conformity of the publication procedure with the Description or other internal legal acts of the Institute.

Having analysed and evaluated the provided information and the supporting documents and legal regulation and following subparagraph 8 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