

APPROVED

by Order No. V-19 of the Ombudsperson for
Academic Ethics and Procedures of 9 August
2019

RECOMMENDATIONS FOR EXAMINING AND INVESTIGATING COMPLAINTS AND REPORTS AT THE INITIATIVE OF THE OMBUDSPERSON FOR ACADEMIC ETHICS AND PROCEDURES

I. GENERAL PROVISIONS

1. The Recommendations for Examining and Investigating Complaints and Reports at the Initiative of the Ombudsperson for Academic Ethics and Procedures (the Recommendations) lay down the rules for examining complaints and reports (both together referred to as a complaint) and conducting investigations (all together referred to as an investigation) at the initiative of the Office of the Ombudsperson for Academic Ethics and Procedures of the Republic of Lithuania (the Office).
2. The Recommendations have been drafted in accordance with the Law on Higher Education and Research of the Republic of Lithuania, the Rules for Examining Applications and Complaints of Persons and Serving them in Public Administration Institutions, Bodies and Other Public Administration Entities approved by Resolution No. 875 of the Government of the Republic of Lithuania of 22 August 2007 “On the Approval of the Rules for Examining Applications and Complaints of Persons and Serving them in Public Administration Institutions, Bodies and Other Public Administration Entities”, the Regulations and the Rules of Procedure of the Office of the Ombudsperson for Academic Ethics and Procedures, and other regulatory legal acts. The ENRIO Handbook: Recommendations for the Investigation of Research Misconduct was also used in drafting the Recommendations.
3. The Recommendations shall not apply in investigating administrative offenses under the Code of Administrative Offenses of the Republic of Lithuania.
4. These Recommendations are intended for employees in charge for examining investigations (investigators). They are of an advisory nature, thus when planning to carry out a research and in carrying it out, each investigator shall take into account the specifics of an investigation and plan the course of an investigation having approved it with the Ombudsperson.

II. GROUNDS AND PRINCIPLES FOR CONDUCTING AN INVESTIGATION

5. The aim of an investigation is to assess facts, circumstances, and the possibility of a violation of academic ethics and / or procedures.
6. Grounds for initiating an investigation:
 - 6.1. a written complaint filed with the Office by natural or legal persons shall form the grounds for initiating an investigation;
 - 6.2. the Ombudsperson may start an investigation at her own initiative, having observed any signs of violation of academic ethics and / or procedures in the media or other sources, also in order to assess the implementation of the recommendations made in a decision of the Ombudsperson, or avoiding to implement decisions of the Ombudsperson.

7. Anonymous complaints shall not be examined, unless the Ombudsperson decides otherwise.
8. Complaints may be submitted in a free form or in accordance with a complaint form approved by the Ombudsperson (Annex 1). Complaint shall contain the following information:
 - 8.1. the addressee – the Ombudsperson;
 - 8.2. name, surname (title) of the whistleblower, his place of residence address (headquarters address), e-mail, telephone number or addresses of other electronic means of communication, also name, surname and address of the representative, if any, the representative's e-mail, telephone number or addresses of other electronic means of communication;
 - 8.3. name, surname, job position of a person whose actions are complained about (a potential violator) or title, headquarters address and other known data of the person being complained about (e-mail, telephone number or addresses of other electronic means of communication);
 - 8.4. circumstances, which the whistleblower uses to base his complaint, and the supporting evidence, names, surnames and known contact details of witnesses, and location of other evidence;
 - 8.5. an application to the Ombudsperson;
 - 8.6. date of signing of the complaint and signature of the whistleblower.
9. If a whistleblower's representative files a complaint, a power of attorney or another document substantiating legitimate representation of interests of the whistleblower shall be enclosed therewith.
10. The following are the principles of conducting an investigation:
 - 10.1. a comprehensive, detailed and objective examination of circumstances of commission of alleged violations of academic ethics and / or procedures;
 - 10.2. in the course of an investigation, the Office shall seek to ensure the anonymity of persons having reported violations of academic ethics and / or procedures to the Ombudsperson and provide information on them in accordance with the procedure established by legal acts.
11. In order to ensure proper arrangement of protection of personal data by the Office, also the protection of persons having filed a written complaint with the Office, data relating to persons who have filed a written complaint with the Office shall not be disclosed to any stakeholders, shall not be published and may be disclosed solely in presence of a written consent of the whistleblower and solely to the extent necessary to conduct an investigation and to take a comprehensive, complete and objective decision, also in other cases established by law.
12. The investigator shall get familiar with the material enclosed with a complaint within 3 working days from the day of receipt of the instruction to get familiar with initial complaint material (the date of resolution) and present the Ombudsperson with a proposal for motives for initiating an investigation. Having made a decision to initiate an investigation, the investigator shall present the Ombudsperson with a plan on the course of the investigation (Annex 2) within 5 working days, indicating therein one of the following proposals:
 - 12.1. to forward a complaint on the grounds of self-regulation;
 - 12.2. to plan for specific actions indicating the violation, the possibility whereof shall be assessed, and who and regarding what shall be addressed.
13. Having made a decision not to initiate an investigation, the investigator shall present the Ombudsperson with a draft letter on a reasoned refusal to examine the complaint designated for the whistleblower.
14. If the Ombudsperson receives a complaint the examination of which could result in a direct and obvious conflict of her public and private interests, or where direct and obvious circumstances for a conflict of public and private interests appear in the course of an investigation, the Board of the Seimas

of the Republic of Lithuania shall be presented with a withdrawal from making a decision on a particular investigation and a request for the appointment of a substitute person for a particular investigation.

15. Having appointed an Ombudsperson's substitute person, one of the Office's employees shall be appointed an investigator and shall conduct an investigation in observance of these Recommendations.

16. Where an investigator in charge for an investigation receives a complaint the investigation of which may lead to a conflict of his public and private interests, he shall immediately notify the Ombudsperson thereof in writing. Having assessed the circumstances of a potential conflict of public and private interests, the Ombudsperson may make one of the following decisions:

16.1. to remove the investigator and appoint another investigator;

16.2. not to remove the appointed investigator.

17. The Office shall collect and store all the information necessary for an investigation. Inquiries may be sent and received via the general e-mail of the Office and / or e-mail of the investigator, cc'ing to the general e-mail of the Office.

III. CONDUCTING INVESTIGATIONS

18. After the Ombudsperson approves the plan for the course of investigation, the Office shall:

18.1. notify the whistleblower and the potential violator of the initiation of an investigation within 5 working days, by mail or e-mail, and ask to submit other investigation-related information, if necessary;

18.2. send letters to other stakeholders within 5 working days asking them to submit documents and information related to the investigation.

19. The investigator shall immediately communicate information for publication to the employee administering the Office's website, who shall publish it on the Office's website the same day.

20. Explanations may be made in writing or orally. Oral explanations shall be audio recorded, drafting detailed minutes on the basis thereof. The minutes shall be communicated to the person having made explanations. The recommendation is to set a time limit of 10 working days at the least for making explanations, informing the person that having failed to make explanations that the Ombudsperson may make a decision *in absentia*.

21. Persons, who have or are likely to have participated in committing a violation of academic ethics and / or procedures under investigation, having conducted actions or being responsible for them, also persons, whose rights or legitimate interests have possibly been violated, shall have the following rights:

21.1. provide data, information, make explanations and submit inquiries related to the investigation being carried out;

21.2. file a reasoned request for removal of an investigator conducting an investigation;

21.3. getting familiar with an investigation material shall be possible having submitted a reasoned application therefor (Annex 3). The Ombudsperson shall make a decision on such a request in light of the proposal of the investigator. The investigator shall decide on the extent of the investigation material to be accessed. The investigator shall prepare depersonalized material for access. A copy of the investigation material may only be made upon a reasoned application therefor (Annex 4), stating the purpose of use of data and the obligation to use the data obtained solely for the purposes stated in the application.

22. The Ombudsperson may hire independent experts for providing an expertise regarding an investigation.
23. An investigation shall be conducted and a decision shall be made within the deadlines set by the Law on Higher Education and Research. In presence of difficult circumstances of an investigation or where a person refuses to provide additional information or documents relevant for the investigation, the investigation may be extended by a resolution of the Ombudsperson for up to 3 months from the date of receipt of a complaint or the initiation of an investigation by the investigator submitting an updated plan on the course of investigation.
24. In the absence of a possibility to conduct an investigation within the deadlines set by the Law on Higher Education and Research and in accordance with the principles of an investigation laid down in clause 10 of these Recommendations, having assessed the circumstances of an investigation, the Ombudsperson shall make a decision by passing a resolution on extending the deadline for conducting an investigation.
25. Upon emergence of new circumstances, an investigation may be resumed.
26. Having made a decision on extending the deadline for conducting an investigation or resuming an investigation, the stakeholders shall be informed thereof in writing within 2 working days.
27. An investigation shall be considered completed after all possible data for making a fair and informed decision have been collected (or all opportunities for collecting such data have been used).
28. Having completed an investigation, the Ombudsperson shall make one of the decisions provided for in the Law on Higher Education and Research. The decision or an accompanying letter may list recommendations to the research and higher education institution, the violators and other stakeholders.
29. Depending on circumstances of an investigation, certain violations may be classified as serious or minor (Annex 5). Circumstances of a violation shall be classified depending on their nature, frequency, duration and other circumstances.
30. Having identified potential signs of an offense when conducting an investigation, information shall in all cases be forwarded to law enforcement authorities.
31. Having identified signs of other violations in the course of an investigation, which do not fall within the competence of the Ombudsperson, the collected information (for example, regarding discrimination, and conflict of public and private interests) shall be transferred to the competent authority in accordance with clause 28 of the Rules for Examining Applications and Complaints of Persons and Serving them in Public Administration Entities approved by Resolution No. 875 of the Government of the Republic of Lithuania of 22 August 2007 “Rules for Examining Applications and Complaints of Persons and Serving them in Public Administration Entities”.
32. The Ombudsperson shall make a decision on termination of examination of a complaint or an investigation in cases where:
 - 32.1. the examination of the complaint does not fall under the competence of the Ombudsperson;
 - 32.2. the whistleblower has submitted a waiver from the complaint;
 - 32.3. persons have failed to provide the requested information, while the available data are insufficient for recognizing a complaint unreasonable;
 - 32.4. the circumstances, which led to the initiation of an investigation, have ceased to exist;
 - 32.5. the complaint has been examined comprehensively and reasonably on the basis of self-regulation.
33. Persons listed in the Law on Higher Education and Research and other stakeholders shall be notified of the decision made.

34. Information on the decision-making shall be published in the “Decisions” section on the Office’s website immediately after it has been made. The decision shall be published after the deadline for submitting an appeal of the decision of 30 days, and shall be posted for one year after its publication. If a decision is appealed with court in the course of legal proceedings, the decision shall not be made public, and the calculation of the one-year term shall start from the effective date of the final procedural decision of the court.

35. In order to ensure the protection of personal data, the published decisions of the Ombudsperson shall contain solely the information necessary to achieve the aim pursued.

IV. COMBINING AND SEPARATING COMPLAINTS

36. Having determined that there are two or more complaints of the same or different whistleblowers for the same subject-matter, the Ombudsperson may pass a resolution to combine the complaints into a single investigation.

37. Where a complaint contains more than one request, some of them may be separated into separate investigations of objective circumstances (e.g. unrelated persons for possible violations).

V. FORWARDING A COMPLAINT ON THE GROUNDS OF SELF-REGULATION

38. Having assessed the submitted initial investigation material, the investigator may present the Ombudsperson with a proposal for forwarding a complaint to a higher education and research institution on the grounds of self-regulation within 5 working days.

39. A decision to refuse to investigate a complaint and forward it for investigation to a higher education and research institution on the grounds of self-regulation may be made when:

39.1. a respective higher education and research institution was not contacted for the same possible violation of academic ethics and procedures;

39.2. the whistleblower has not submitted any data confirming a possible bias on the part of the higher education and research institution;

39.3. the specified circumstances form the basis for believing that an alleged violation of academic ethics and procedures is to be considered minor.

40. The list of conditions for applying self-regulation laid down in clause 39 of the Recommendations is not finite.

41. Self-regulation shall not apply, when a filed complaint concerns violations of research ethics and ethics of applied research and publication ethics (see Annex 5).

42. Self-regulation shall not apply, when the Office is contacted for the same alleged violation by a research and higher education institution or its division or in order to ensure the protection of the reporting person for the third time.

43. The whistleblower shall be informed of the decision to refuse to investigate the complaint and forward it for investigation to a research and higher education institution on the grounds, forwarding the complaint to the research and higher education institution within 5 working days from the decision-making day.

44. Having examined the complaint, the research higher education institution shall notify the Ombudsperson of the decision made. Having received a decision of the research and higher education

institution, its completeness and reasonability shall be assessed, also deciding on initiating an investigation at the initiative of the Ombudsperson.

VI. REFUSAL TO EXAMINE A COMPLAINT AND CONDUCT AN INVESTIGATION

45. Should the Ombudsperson decide to refuse to examine a complaint, the whistleblower shall be informed thereof no later than within 15 working days from the date of receipt of his complaint. The following may be the reasons for refusing to examine a complaint:

45.1. an investigation cannot be started, because receiving data is impossible (e.g. they no longer exist or are no longer stored, have been destroyed, etc.) or if the text of the complaint is illegible, and the whistleblower fails to submit data or to revise the complaint at the Ombudsperson's request within the set time limit;

45.2. an investigation of the circumstances laid down in the complaint does not fall within the competence of the Ombudsperson;

45.3. a complaint on the same matter was, is being examined or is to be examined in courts in accordance with laws;

45.4. a repeatedly submitted complaint on the same matter has already been examined by the Office, except for cases when new circumstances have come to light or new facts have been presented.

46. A grounded refusal of the Office to examine a complaint shall be prepared within the time limit set in clause 13 of the Recommendations.

VII. FINAL PROVISIONS

47. If the whistleblower abuses his right to refer to the Ombudsperson, correspondence with this whistleblower may be ended at the decision of the Ombudsperson.

48. These Recommendations shall also be used in investigating possible violations related to commercial secrecy. Persons providing data shall define which data (e.g. contract, thesis data) contain a commercial secrecy and shall provide the Office with data without disclosing the commercial secrecy. In the event of a possible violation relating to data containing a commercial secrecy, the Office shall commit to the persons having submitted data in writing to follow confidentiality requirements.

COMPLAINT

of the whistleblower¹.....
(name, surname, legal entity name)

residing at (located at)
(address, registered office address of the legal entity)

Tel.

E-mail:

..... 20.....

To the Ombudsperson for Academic Ethics and Procedures

1. Whose (name and surname of the natural person / legal entity name) and which actions (action or omission) are you complaining about?

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2. Data on a possible violation of academic ethics and/or procedures:

(please list the circumstances of commission of actions (action or omission), which potentially violate academic ethics and/or procedures)

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¹ **Note.** If you have been granted powers to submit a complaint on behalf of another person, please attach a copy of the power of attorney approved in accordance with the procedure established by laws.

3. What are you asking the Ombudsperson?

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4. Which persons, who can confirm the actions (action or omission) which you complaint about, would you like to list?

(please indicate names, surnames and contact data of the persons, and the circumstances which each of them can confirm)

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5. Was a research and higher education institution addressed for that same possible violation of academic ethics and/or procedures?

yes (Please indicate when and under which circumstances the institution was addressed. If the application was examined, please enclose a copy of the institution’s decision on the actions which you complained about).....

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no* (please provide supporting data that the complaint (report) would be examined unobjectively at the respective research and higher education institution):

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* In promoting self-regulation of a research and higher education institution and pursuant to Article 17(16) of the Law on Higher Education and Research of the Republic of Lithuania, the Ombudsperson “may refuse to examine a complaint (report) regarding an allegation of academic ethics and, after informing the whistleblower, transfer the complaint (report) to the academic ethics or another dispute resolution commission of the research and higher education institution, which supervises the observance of academic ethics, if the academic ethics or another dispute resolution commission of the

respective research and higher education institution has not yet been addressed for the same allegation of academic ethics”.

6. Was another institution addressed for the actions (action or omission) being complained about?

(If so, please indicate when, where and under what circumstances. Please insert a copy of the received response of the institution)

.....
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.....

7. Has a complaint/report regarding actions (action or omission) that possibly violate academic ethics and/or procedures been examined in court?

(If it is pending before a court, please indicate when and which court was addressed for the actions being complained about. If a complaint already was examined, please include a copy of a court ruling)

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8. Is there a pending pre-trial investigation or legal proceedings related to the actions (action or omission) complained about?

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9. Data (evidence) substantiating the complaint, documents (their copies), correspondence, records, etc., attached.

I have evidence

.....
.....
.....
.....
.....

I do not have any evidence

.....

ANNEXES:

- 1., pages;
- 2., pages;
- 3., pages.

.....
(name, surname)

.....
(signature)

By submitting a complaint, I **confirm** that I have been properly informed of the fact that the Office of the Ombudsperson shall be a personal data controller.

.....
(name, surname)

.....
(signature)

I **understand** that all the personal data that I have submitted and/or collected from other sources, which are necessary for the investigation of the complaint, shall be processed and/or transferred to third persons, i.e. other responsible institutions and establishments pursuant to clause 8 of Article 17(11) and Articles 17(13) and 17(16) of the Law on Higher Education and Research of the Republic of Lithuania in order to effectively resolve the issues raised in the whistleblower's complaint.

I agree:
(name, surname)

.....
(signature)

I disagree:
(name, surname)

.....
(signature)

I **understand** that I have the right to be forgotten at any time in accordance with applicable law *, i.e. to request to cancel my consent to the processing of my personal data, and I **confirm** that I am aware that the right to be forgotten is not an absolute right and may not be exercised in such cases as (1) seeking to exercise my right to freedom of self-expression and information; (2) seeking to comply with a legal obligation imposed by law of the European Union or a Member State which the data controller is subject to and which requires the processing of data, or seeking to complete a task carried out for the sake of the public interest, or in the exercise of public functions delegated to the data controller; 3) for archiving purposes for the sake of the public interest, scientific or historical research or statistical purposes; 4) seeking to file, enforce or defend legal requirements.

.....
(name, surname)

.....
(signature)

My provided information and other collected complaint-related information necessary to make an Ombudsperson's decision may be used for research purposes (such as publishing and otherwise announcing research results), ensuring my anonymity. The Office shall ensure that the investigator(s) undertake to respect the principles of confidentiality and ethics of research and publication.

I agree:
(name, surname)

.....
(signature)

I disagree:
(name, surname)

.....
(signature)

* Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), available at <https://eur-lex.europa.eu/legal-content/LT/TXT/?uri=celex%3A32016R0679>.

Annex 2 to the Order No. V-19
of the Ombudsperson for Academic Ethics and
Procedures of 9 August 2019

(sample form)

PLAN FOR INVESTIGATING A COMPLAINT OR A REPORT

Date _____ No. _____

1.	Date of receipt of the complaint/report and its number	
2.	Decision-making date	
	Date of preparation of a draft decision	
3.	Essence of the complaint/report:	<i>Brief description of the actions/ omission appealed</i>
4.	Qualification of a possible violation:	
4.1.	Allegation(s) of academic ethics:	<i>Please specify the clause of the Code of Academic Ethics</i>
4.1.1.		
4.1.2.		
4.2.	Allegation(s) of procedures:	<i>Please specify the internal document of a research and higher education institution</i>
4.2.1.		
4.2.2.		
5.	Proposal for a received complaint/report:	
5.1.	To start an investigation:	
5.1.1.	To forward on a self-regulation basis	<i>A brief substantiation under Article 17(16) of the Law on Higher Education and Research, indicating whom it should be forwarded to</i>
5.1.2.	To plan for specific actions of investigation of a complaint/report	
5.2.	Not to start an investigation	
6.	Planning the course of investigation of a complaint*: <i>(to be completed if a proposal has been made to examine the complaint or to start its investigation)</i>	
6.1.	Examples:	

* To be completed by hand or a PC. Having examined a complaint or conducted an investigation, it shall be signed and attached to a draft decision (if completed using a PC, it shall be printed and signed).

	To prepare a letter to an institution or a person asking to submit a respective information and documents. Having analysed the material received and detected inconsistencies, to invite the whistleblowert, representatives of the institution or other persons for an interview.
6.2.	
6.3.	

(job position of the investigator)

(signature)

(name and surname)

Annex 3 to the Order No. V-19
of the Ombudsperson for Academic Ethics and
Procedures of 9 August 2019

(place of resolution)

(person's name and surname)

(place of residence)

(telephone No., e-mail address)

To the Ombudsperson for Academic Ethics and Procedures

**APPLICATION
for accessing investigation material**

(date)

Please allow me to access

(please indicate data on the investigation, participants in the procedure or other characteristics of the case(s)
or searched information)

Purpose of access (use of information)

Please provide me with copies of the following documents:

(please indicate the title, date and number of documents, also other characteristics of documents)

COMMITMENT

I understand that pursuant to clause 12(4) of the Regulations of the Office approved by Resolution No. XI-1583 of the Seimas of the Republic of Lithuania of 15 September 2011 "Regarding the

Establishment of the Office of Ombudsperson for Academic Ethics and Procedures and the Approval of the Regulations of the Office of Ombudsperson for Academic Ethics and Procedures”, one of the tasks of the Ombudsperson for Academic Ethics and Procedures is “to ensure an effective and confidential investigation of violations of academic ethics and procedures”, thus I **commit**:

1) to process confidential information in accordance with laws and other legal acts of the Republic of Lithuania, and not to disclose, transfer or create conditions for accessing the information being processed by any means to any person, who has not been authorized to use this information;

2) to use the discovered information and documents received having accessed the investigation material solely for the purposes indicated in the application or the purposes laid down in the resolution, if they are different from the purposes indicated in the application, without violating rights and freedoms of the person and citizens, also legitimate interests of the society and the state.

signature

name, surname

Annex 4 to the Order No. V-19
of the Ombudsperson for Academic Ethics and
Procedures of 9 August 2019

(place of resolution)

(person's name and surname)

(place of residence)

(telephone No., e-mail address)

To the Ombudsperson for Academic Ethics and Procedures

**APPLICATION
for copies of investigation material**

(date)

Please provide me with copies of the following documents:

(please indicate the title, date, number of documents or other characteristics of documents)

Purpose of use of documents:

COMMITMENT

I hereby commit:

1) to process confidential information in accordance with laws and other legal acts of the Republic of Lithuania, and not to disclose, transfer or create conditions for accessing the information being processed by any means to any person, who has not been authorized to use this information;

2) to use the documents received solely for the purposes indicated in the application or the purposes laid down in the resolution, if they are different from the purposes indicated in the application, without violating rights and freedoms of the person and citizens, also legitimate interests of the society and the state.

signature

name, surname

Annex 5 to the Order No. V-19
of the Ombudsperson for Academic Ethics and
Procedures of 9 August 2019

Types of violations of academic ethics*

Violations of research ethics and applied research ethics	Violations of publication ethics
Negligence Data imputation Suppression of data Fabrication Falsification HARKing Code plagiarism Confidentiality violation Mismanagement of research funds p-hacking	Redundant publication Multimedia plagiarism Multiple submission Gift or guest authorship Patchwriting Confidentiality violation Mutual admiration authorship Invalid source Citation amnesia Covert duplication Verbatim plagiarism Find-Replace plagiarism Invented authorship Coercion authorship Self-plagiarism Biolerplate plagiarism Ghost authorship Segmented publication Augmented publication Image plagiarism Translation plagiarism

Gross violations of academic ethics have been bolded.

This list of violations of academic ethics is not finite.

* Prepared according to: Tauginienė, L., Gaižauskaitė, I., Glendinning, I., Kravjar, J., Ojsteršek, M., Ribeiro, L., Odiņeca, T., Marino, F., Cosentino, M., Sivasubramaniam, S., Foltýnek, T. *Aiškinamasis akademinio sąžiningumo terminų žodynas [Glossary for Academic Integrity]*. Updated version, October 2018. Translation by Loreta Tauginienė and Inga Gaižauskaitė. Vilnius: Mykolas Romeris University, 2019. e-ISBN 978-9955-19-971-7.