

Case No CEDUC-22-2586

6 April 2022

Professor Carmen Sammut
Pro Rector - Student and Staff Affairs and Outreach
University of Malta
Msida MSD 2080
E-mail: carmen.sammut@um.edu.mt

Dear Professor Sammut

Re: [Omissis]

I refer to your letter dated 1st April 2022 in connection with the case in caption, in which you advised this Office about the University's position with regard to the recommendation made in the Final Opinion of 4th March 2022.

Had you simply informed me that the University did not agree with this Office's assessment that two of the three members of the Board of Examiners did not have the necessary expertise in ethnomusicology, or that the recommendation had been overtaken by events (the complainant's alleged choice to graduate on 23rd March 2022), I would simply have referred the Final Opinion to the Speaker of the House of Representatives as a matter of record on the need to exercise due diligence (by a Faculty, Institute or by the Senate) in the choice of examiners.

However the University has chosen to base its refusal to comply with the recommendation on the "principle of autonomy and academic freedom that applies to all universities". In doing so you also state that the composition of Boards of Examiners "cannot be subject to review by the Office of the Commissioner for Education" because of the "academic supremacy of Senate".

Clearly you – or whoever drafted the letter – have not seen, or understood, paragraphs 3 to 5 of the Final Opinion (a copy of which I re-send for ease of reference). While the University's autonomy and academic freedom is clearly implied in Article 72 *et seq.* of the Education Act (Cap. 327), the Ombudsman's jurisdiction to probe into alleged instances of maladministration stems from the Ombudsman Act (Cap. 385) and from the Commissioners for Administrative Investigations (Functions) Rules, 2012 (S.L.385.01). As was clearly stated in the Final Opinion, in line with Rule 18 of the said Rules, the undersigned has jurisdiction to investigate and recommend if "there is evidence of maladministration", which in this case there was. To suggest, as you seem to do, that the "academic supremacy of Senate" is more unassailable than the doctrine of papal infallibility is not only contrary to the clear wording of the law but

also a disservice to our Alma Mater, fostering as it does at best a perceived culture of academic arrogance and at worst one of institutional impunity. Both the Ombudsman and the Courts (see for example *Gaetano Vella v. Università ta' Malta*, Court of Appeal, 26th May 2021) have, in appropriate circumstances, residual functions and jurisdiction in academic matters.

Finally, it is not correct to say that the complainant “chose to graduate on 23rd March 2022”. He had no choice. I have examined the Registrar’s email to the complainant of the 11th March 2022, where Dr Borg, after reciting all the University’s objections to reconstituting the Board of Examiners, ends with the following: “Given the scenario the University will be proceeding with your graduation as scheduled on Wednesday 23 March” (my underlining). The complainant was later advised that failure to be present at the graduation would simply mean that he would graduate *in absentia*. Was there a choice in all this? Moreover, I fail to see how a graduation can necessarily be considered as final curtain, allowing no further review of the complainant’s results. As far as I am aware, if a graduate is later found guilty of plagiarism most universities provide for the revocation of the award. Academic integrity requires also that facts be correctly and accurately stated.

I am therefore left with no option but to include this exchange of letters in the correspondence with the Prime Minister and with the Speaker in the course of the *iter* prescribed in Article 22(4) of the Ombudsman Act. A hard copy will be sent by post.

Yours sincerely

Vincent A De Gaetano
Commissioner for Education

Encl – Copy of Final Opinion and Pro Rector’s Letter

Copy: The Honourable Minister Dr Clifton Grima - Minister for Education
Perit Karmenu Vella – Pro-Chancellor of the University of Malta
Professor Alfred Vella – Rector – University of Malta