

EUR Complaints regulations Undesirable Behaviour 2020

These Regulations were adopted by the Executive Board on June 9th, 2020.

The EUR complaints procedure for undesirable behaviour (sexual harassment, aggression, violence, bullying and discrimination) dated March 2008 will be withdrawn on June 9th, 2020.

These Regulations come into force on June 9th, 2020.

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Chapter I - Definitions

Article 1.1 - Definitions

For the purposes of these Regulations, the terms below are defined as follows:

- AWB The Dutch General Administrative Law Act
- Administrator The person assigned by the Board to perform the administrative tasks, on behalf of and under the responsibility of the Board (Article 1.1 (1) BBR-EUR-2020)
- Person involved Complainant, Defendant, witnesses and/or specialists
- Defendant The person about whom a Complaint of Undesirable Behaviour has been submitted and who also has a Legal Relationship with EUR
- CAO-NU Collective Employment Contract Dutch Universities
- Board: Executive Board of EUR
- COG The Committee for Undesirable Behaviour, the permanent Complaints Committee set up by the Board to investigate, assess and advise the Board or the Supervisory Board about a Complaint of Undesirable Behaviour, at the request of the Board
- File The staff or student file
- EUR Erasmus University Rotterdam
- Lawyer Someone with the title Master of Law ([Article 7.20 \(1\) sub b](#) WHW)
- Notification The Written and substantiated findings of the investigation into the Complaint, with which the investigation is closed (Article 9:12 AWB)
- Complaint(s) Verbal or Written complaint by a Complainant about alleged Undesirable Behaviour submitted to the COG
- Complainant The person who submits a Complaint to the COG
- Ombudsman The (National) Ombudsman as referred to in Article 9:12 AWB
- Undesirable Behaviour Behaviour that is socially and objectively regarded as inappropriate, bothersome, hurtful, threatening or unacceptable, whereby the personal integrity of another person is verbally, non-verbally, physically, digitally or otherwise compromised, including (sexual) harassment, bullying, discrimination, threats, gossip, racist behaviour, aggression. All under the restriction that the behaviour is directly connected with the Legal Relationship.
- Parties Complainant and Defendant
- Supervisory Board EUR Supervisory Board
- Regulations EUR complaints regulations Undesirable Behaviour
- Legal Relationship:
 - an employment contract with EUR
 - performing work for EUR other than based on an employment contract
 - enrolled as a student for an initial or non-initial programme or course at EUR
 - enrolled as an external candidate at EUR
 - a hospitality contract with EUR
- In Writing or Written By letter or e-mail (Article 2.13-2.17 AWB)
- Secretary Secretary of the COG
- Confidential The person appointed as such by the Board

- counsellor (www.eur.nl/vp);
- Withdrawal The decision not to sit on the COG to process a certain Complaint
- Challenge Rejection by a chairperson or member of the COG for the processing of a Complaint based on grounds that could jeopardise independence or neutrality
- WHW The Dutch Higher Education and Research Act

Chapter II – General

Article 2.1 - Complaint

1. A Complaint is submitted to the COG.
2. The Board is immediately informed by the COG about the receipt of a Complaint.

Article 2.2 - Statutory framework

1. All Complaints are processed in compliance with the AWB, particularly the provisions in [Title 9.1 of the AWB](#), unless otherwise stipulated in the Regulations.

Article 2.3 - Transfer of authorisations

1. The following authorisations apply to these Regulations administered by the COG:
 - Article 9:4 AWB (set term for reinstating absence)
 - Article 9:6 AWB (confirmation of receipt)
 - Article 9:9 AWB (send copy of complaint to defendant)
 - Article 9:10 AWB (the hearing)
 - Article 9:11 (2) AWB (adjourn completion by four weeks)
 - Article 9:12a (AWB) (registration complaints process)

Article 2.4 - Confidentiality of Complaint processing

1. Every Complaint is handled confidentially. Everyone who is directly or indirectly involved in the Complaints procedure must observe strict confidentiality with respect to all the information obtained in relation to the Complaint.
2. The COG may instigate a further investigation into breach of confidentiality.
3. After verifying the breach of confidentiality, the COG may take further measures to protect confidentiality. These measures may extend to the way in which Parties are heard and the distribution of (access to) documents and reports. The COG may advise the Board to take appropriate measures.
4. Confidentiality does not apply to the exchange of information between Secretary, COG, other persons appointed by the Board specifically to handle the Complaint and, based on a legal obligation, to authorised officers of police and justice in the framework of a legal process.
5. The COG only collects and processes personal data that are necessary to issue advice. When processing personal data, the COG secures all data from loss and unlawful processing.

Article 2.5 - Concurrence Complaint Undesirable Behaviour with notice of appeal

1. If due to Undesirable Behaviour, related processes are being carried out at other legal protection organisations or committees at EUR, the Board may decide to act jointly ([Article 8:14 AWB](#)).

Chapter III – The COG

Article 3.1 - Appointment COG

1. A COG has been appointed by the Board to handle and advise on Complaints.
2. The Board appoints the chairpersons and the members, after the University Council has been consulted, for a period of four years. The chairpersons and members may be reappointed.
3. The members of the Board, the members of the Supervisory Board, the Managers and the Confidential counsellors are not eligible for appointment as chairperson or member of the COG.

Article 3.2 - Composition COG, Challenge and Withdrawal

1. The COG sits with three members, including chairperson, including a Lawyer.
2. The Complaint is handled by a COG, whose chairperson and members are not or have not been involved in any way in the Complaint or with the Parties.
3. The chairperson or a member of the COG may Withdraw.
4. Parties may Challenge the chairperson or a member of the COG or the entire COG. A well-substantiated Challenge request should be sent in Writing to the Board by the Secretary.
5. The Board assesses the Challenge request. No appeal or objection may be submitted against this decision.
6. In the case of a Challenge and/or Withdrawal, the COG member concerned is replaced by another member, or a new COG is appointed.

Article 3.3 - Dismissal

1. After being heard, a chairperson or a member may be dismissed from the COG if the Board feels there are important reasons.
2. At their own request, a chairperson or a member may be dismissed from the COG at any time.
3. Membership of the COG is legally terminated if a position is accepted that is incompatible with membership of the COG.

Article 3.4 - Secretary

1. In the execution of the work, the Secretary follows the instructions of the chairperson of the COG.

Article 3.5 - Remuneration chairperson and members

1. The chairperson and members of the COG receive remuneration according to the Attendance Fee Regulations adopted by the Board.

Article 3.6 - Tasks of the COG

1. The COG issues advice without objection about the admissibility and (un)foundedness of the Complaint to the Board. If no advice can be given about the (un)foundedness of the complaint, this is substantiated in the advice to the Board.
2. If necessary, the COG will advise on any measures to be taken by the Board.
3. The COG is authorised to provide solicited or unsolicited advice about the policy to be adopted by the Board with respect to preventing Undesirable Behaviour at EUR.

Article 3.7 - Working method of the COG

1. The COG advises exclusively on Complaints about Undesirable Behaviour.
2. Either at its request or not, the Board provides the COG with all the information it needs to perform its task satisfactorily ([Article 3:7 AWB](#)).
3. The COG may consult witnesses and specialists, who may or may not be associated with EUR. A report is drawn up of these consultations.

Chapter IV - Complaints procedure

Article 4.1 - Submit Complaint

1. A Complaint is submitted to the Secretary in Writing and in the Dutch language for the attention of the Board ([Article 2:6 AWB](#)).
2. A Complaint is signed, includes the name and address of the Complainant, date, name of Defendant, the description of the alleged Undesirable Behaviour and, where applicable, the date or period during which the alleged Undesirable Behaviour took place ([Article 9:4 AWB](#)).

Article 4.2 - No processing of the Complaint

1. A Complaint will not be processed if:
 - the Complaint does not fall into the category of Undesirable Behaviour defined in these Regulations;
 - the Complaint concerns behaviour that dates back longer than a year before the Complaint was submitted;
 - the Legal Relationship of the Complainant ended more than three months before the Complaint was submitted or if the Complainant never had a Legal Relationship with EUR;
 - the defendant does not have a Legal Relationship with EUR;
 - the request by the COG to reinstate or extend an absence has not been fulfilled.
2. If the Complaint may not be processed, the COG will advise the Board in Writing and with reasons.
3. The Board will notify the Complainant in Writing as soon as possible that the Complaint will not be processed. This notification will state the period in which the Complainant may submit an appeal to the Ombudsman.

-Article 4.3 - Reinstating absence ([Article 9:4 AWB](#))

1. If the requirements presented in [Article 4:1](#) of these Regulations are not met, the COG will give the Complainant the opportunity to reinstate absence within a period of ten working days.

2. The period of ten working days has a suspensive effect for the term in which advice is issued.

Article 4.4 - Admissibility

1. A Complaint may be declared inadmissible if:
 - the conditions of the Regulations are not fulfilled, despite the request by the COG to reinstate or extend an absence
 - the Complaint does not relate to Undesirable Behaviour
2. If the Complaint is declared inadmissible, the COG will advise the Board in Writing and with reasons.
3. The Board will inform the Complainant in Writing with reasons about the inadmissibility of the Complaint. This notification will state to which Ombudsman and the period in which the Complainant may submit an appeal.

Article 4.5 - Complaint processing

1. After the Complaint has been declared admissible, the COG will inform the Defendant.
2. The COG will send the Complaint to the Defendant.
3. The Defendant may send a defence to the COG before the hearing.
4. A copy of the defence is sent to the Complainant.
5. During the investigation, the COG may provide interim advice to the Board to take (perhaps temporary) measures.
6. All correspondence with COG takes place in Dutch ([Art. 2:6 AWB](#)).

Article 4.6 - Withdrawing Complaint

1. The Complainant may withdraw the Complaint in Writing at any time.
2. If the Complaint is withdrawn, the processing by the COG is immediately terminated. The COG immediately informs the Defendant and the Board in Writing.

Article 4.7 - Support

1. Parties may be supported by a Confidential Counsellor and attorney. Any costs will be charged to the person receiving support.
2. Parties may be eligible for legal aid from the Legal Aid Board. See www.rvr.org.
3. If a request for legal aid is rejected by the Legal Aid Board, the Board, after the Parties have submitted a request in Writing to the Secretary, may decide to reimburse the costs of legal aid up to a maximum of 1500 euros, excluding VAT, per case, on presentation of an invoice from the solicitor involved. A Party may submit such a request once a year. Parties should enclose a certified copy of the rejection by the Legal Aid Board.

Article 4.8 – Interpreter ([Article 2:6 AWB](#))

1. When a request for legal aid is accepted by the Legal Aid Board, the solicitor at the Legal Aid Board may request a sworn and subsidised interpreter if the Parties do not speak Dutch.
2. If a request for a subsidised interpreter is rejected by the Legal Aid Board, after the Parties have submitted a request in Writing to the Secretary, the Board may decide to reimburse the costs of legal aid up to a maximum of 1500 euros, excluding VAT, per case, on presentation of an invoice from the interpreter. A Party may submit such a request **once** a year. Parties should enclose a certified copy of the rejection by the Legal Aid Board.

Article 4.9 – Hearing

1. The COG determines as soon as possible after receiving the (reinstated) Complaint the date and time of the hearing and summons those involved in Writing.
2. The COG may decide to jointly process several Complaints.
3. The COG may consult witnesses and specialists.
4. The hearings are not public.
5. The hearings of the COG are held in Dutch.
6. The hearing is held by the COG or the chairperson or a member of the COG.
7. Parties may be supported by one person of their choice, in addition to any attorney and interpreter.
8. The parties involved are heard in person and in principle not in each other's presence. If necessary, the COG may hear the Parties Involved in each other's presence.
9. The hearing may not be held if the Complaint is apparently unfounded, or if one of the Parties does not wish to take advantage of their right to a hearing.
10. The COG makes an audio recording of the hearings. The recordings remain in the possession of the COG and are deleted after the term in which a request can be submitted to the Ombudsman.

Article 4.10 – Reporting ([Article 7:7 AWB](#))

1. After the hearing, the report of the hearing is sent to the person who was heard, with the request to return the report within 5 working days, signed for approval, perhaps with a separate substantive response, which is added at the end of the report. If the report is not returned within 5 working days, the report is legally adopted.
2. The reports, with a response as referred to in 1, are shared with the Parties under the conditions established by the COG.
3. The reports of the hearing and the Written responses are sent to the Board separately from the advice from the COG.

Article 4.11 - Anonymous witness

1. A statement whereby the identity of the witness is not published and thus not verifiable is not taken into consideration by the COG.

Article 4.12 - Advice

1. The COG sends the advice within 10 weeks of receiving the (reinstated) Complaint to the Board.
2. If the term of 10 weeks is not achievable due to the care required in processing the complaint, the Parties and the Board will be notified in Writing.

Chapter V – Result processing

Article 5.1 - Notification Board result of Complaint processing

1. Within four weeks of receiving the advice from the COG, the Board records its decision about the Complaint and sends the Parties this Notification, sending a copy of the advice to the COG at the same time.

2. The Board also sends the Notification for informative reasons to the Secretary at the COG.
3. If the assessment of the Board differs from the advice of the COG, the reason for this difference is provided in the Notification.
4. The Notification about the processing of the Complaint may not be challenged or appealed.
5. This Notification will state the period in which the Complainant may submit an appeal to the Ombudsman.

Chapter VI – Final provisions

Article 6.1 Legal protection

1. A Complainant, witness(es), specialist(s), the Confidential Councillor or the Secretary, the chairperson and members of the COG who have been involved in a Complaints Procedure as described in these Regulations, will in no way be disadvantaged in their position at EUR as a result of being involved in a Complaint, insofar as they have acted in good faith. This also applies to the Defendant insofar as the Complaint is declared unfounded.

Article 6.2 - Complaint against the Board

1. If a Complaint is submitted about a member of the Board, in these Regulations, reference to 'Board' is replaced by 'Supervisory Board'.
2. In contrast to Article 3.1 (2), the Supervisory Board will appoint the chairperson and members of the COG to process a Complaint against a member of the Board. If the Supervisory Board decides not to compose the COG from the chairpersons and members appointed by the Board, the University Council will be informed in confidence.

Article 6.3 – Interpretation

1. In cases relating to these Regulations for which these Regulations make no provision or if these Regulations allow for more than one interpretation, the Board shall take a decision.
2. The Board may take a decision differing from the provisions of or pursuant to these Regulations.

Article 6.4 – Translation

1. If these Regulations are translated and any conflict arises between the translation and the Dutch version, the Dutch version will prevail.

Article 6.5 – Publication

1. The Board will post these Regulations on the EUR website.

Article 6.6 – Short title

1. These regulations are referred to as: EUR complaints regulations Undesirable Behaviour 2020

Article 6.7 – Applicable law

1. These Regulations are governed solely by Dutch law.

Article 6.8 – Administration of Regulations

1. These Regulations are administered by the General Management Directorate, Legal Affairs Department.