

Regulations on Reporting Suspicion of Wrongdoings EUR 2021

(2021 Whistleblowers Regulations)

Elaboration of Article 2 of the Whistleblowers Authority Act

This Scheme was adopted by the [Executive Board](#) on [10 November 2020](#)

The [University Council](#) issued advice relating to this Scheme on [10 December 2020](#)

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Preamble

The EUR Executive Board considers it of high importance that any abuse within the organization can be addressed within a safe setting. Although EUR strives for an honest and open organization, it recognizes that abuses can occur. Those who report wrongdoing in good faith must be protected.

These regulations offer protection to those who report in good faith internally to the Whistleblowers Committee or externally via the Whistleblowers Authority. Furthermore, these Regulations offer protection to other parties involved in the investigation.

Any suspicion of illegal or immoral practices, involving major social or institutional interests, which may have taken place under the responsibility of EUR, can be reported within the rules described in the EUR Rules for Reporting Suspicion of Abuses. These Whistleblower Regulations provide information about the procedure but also offer legal protection to the reporter of the abuse. In the context of EUR's integrity policy, the procedure offers the option of having suspected abuses investigated by a committee composed of a chair and members who are not employed at EUR.

After the Whistleblowers Committee has reported the results of the matter under investigation to the Executive Board, the Executive Board may decide to take measures. These measures can be taken within different legal frameworks. This requires the right (legal) expertise. The committee is expert in the field of alleged wrongdoing, but not in all areas of law to which a measure may extend. Measures can be based, among other things, on labor law (in the relationship between employer and employee), administrative law (as further elaborated in the EUR Order Regulations), criminal law (reporting to the police and prosecution by the judicial authorities) and private law (EUR as owner of the buildings, sites and systems).

Chapter I – Definitions

Article 1.1 - Definitions

For the purposes of this Scheme, the terms below are defined as follows:

- *Administrative Body* Body of a legal entity established in accordance with public law, or a Board or person vested with a certain degree of public authority, as referred to in [Article 1:1 Awb](#) [The Dutch General Administrative Law Act](#);
- *Awb* [The Dutch General Administrative Law Act](#);
- *Chair* The person appointed as Chair by the Executive Board to Chair the Committee during the processing of a Report;
- *Committee* Whistleblower Committee; the Committee established by the Executive Board to investigate, assess and advise the Executive Board regarding a Report;
- *Confidential Counsellor* The person who is designated as Confidential Counsellor by the Executive Board and to whom an Officer ([Employee Confidential Counsellor](#)) or Student ([Student Confidential Counsellor](#)) can make a Report;
- *EUR* The legal entity established under public law, officially known as: Erasmus University Rotterdam;
- *Executive Board* Executive Board of Erasmus University Rotterdam, an Administrative Body as referred to in [Article 1:1 paragraph 1 sub a Awb](#);
- *External candidate* As referred to in [chapter 7 WHW](#);
- *GDPR* [General Data Protection Regulation](#);
- *Investigation* The collection of information by the Committee and the issue of recommendations to the Executive Board regarding the validity of the Report being processed and other findings;
- *In writing* By letter or e-mail ([Article 2.13-2.17 Awb](#));
- *Legal Expert* Someone with the title Master of Law ([Article. 7.20, paragraph 1 under b, WHW](#));
- *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 programme or enrolled as Trainee for a non-initial programme at EUR;
 - enrolled as an External candidate at EUR;
 - a hospitality contract with EUR;
- *Manager* The direct manager of the employee who makes a report. For persons who do not have an employment contract with EUR, a contact person/external manager applies as Manager;
- *Notification* Written and substantiated findings as a result of the Report, in which the Executive Board's assessment is announced ([Article 9:12 Awb](#));
- *Officer* A person employed by EUR or working for EUR under another title;
- *Ombudsman* [The \(National\) Ombudsman](#) as referred to in [Article 9:12 Awb](#);

- *Ombudsperson* The person at EUR who is designated as [Ombudsperson](#) by the Executive Board;
 - *Parties concerned* Reporter and those to whom the Report relates;
 - *Reporter* The person who reports the Suspicion of Wrongdoings at EUR as referred to in article 4.1 of this Scheme:
 - a. former or current trainee; or
 - b. former or current officer; or
 - c. former or current student; or
 - d. internal Administrative Body;
 - *Report* Internal Report of a Suspicion of Wrongdoing to the Committee;
 - *Scheme* 2021 EUR Scheme for Reporting Suspicion of Wrongdoings (Whistleblowers Scheme);
 - *Secretary* Secretary of the Committee;
 - *Student* The person enrolled at EUR and admitted to it, as referred to in [Chapter 7 Title 3 WHW](#);
 - *Supervisory Board* Supervisory Board ([Article 9.7 of the WHW](#));
 - *Suspicion of wrongdoing* A suspicion based on reasonable grounds or based on knowledge the Reporter has gained at EUR that a Wrongdoing is taking place at EUR;
 - *Trainee* The person following a study programme, training programme or course at EUR that is not covered by [Article 7.3](#) and [Article 7.3a of the WHW](#);
 - *University Council* As referred to in [Article 9.31 of the WHW](#);
 - *WAA* [Whistleblowers Authority Act](#);
 - *WHW* [The Dutch Higher Education and Research Act](#);
 - *Working day* As referred to in the [General Extension of Time-Limits Act](#), all days with the exception of a Saturday, Sunday or generally recognised public holiday;
 - *Wrongdoing* Improper manner of an act or omission in which the public interest is at stake in the violation of a statutory regulation, a danger to public health, a danger to the safety of persons, a danger of damage to the environment, a danger to the environment proper functioning of the public service or a company.
2. Wherever the masculine form is used in this Scheme, this may also be interpreted as the feminine form and vice versa.
 3. Wherever the singular form is used in this Scheme, this may also in certain cases be interpreted as the plural form and vice versa.

Chapter II – General Provisions

Article 2.1 – Suspicion of Wrongdoing ([Article 1 Paragraph D from the WAA](#))

1. A Suspicion of Wrongdoing is a Suspicion based on reasonable grounds that a Wrongdoing has taken place at EUR or based on the knowledge the Reporter has gained at EUR.

2. A Suspicion of Wrongdoing does not include:
 - a. a complaint as defined by the '[EUR Student Complaints Procedure and External Candidates](#)';
 - b. a complaint as defined by the '[EUR Complaints procedure Scientific Integrity](#)';
 - c. complaint as defined by the '[EUR Complaints procedure Inappropriate Behaviour](#)';
 - d. disputes based on the 'EUR employee disputes regulation';
 - e. a complaint as defined in [Chapter 9 Awb](#);
 - f. an objection as defined in the '[Advice Committee for Objections](#)';
 - g. an objection as defined in the '[EUR Student Arbitration Committee Regulations](#)'.

Article 2.2 – Statutory framework

1. A Report is processed in accordance with the [Whistleblowers Authority Act](#) and insofar as this applies to the provisions in the [Awb](#), in particular title 9.1 Awb, and [GDPR](#), unless stated otherwise in this Scheme.

Article 2.3 – Prohibition of disadvantaging

1. Reporter and those to whom the Report relates, witnesses, specialists, Confidential Counsellors, the Ombudsperson, the Secretary, the Chair and members of the Committee and others who have been involved in a procedure as described in this Scheme will in no way be disadvantaged in their position at EUR as a result of being involved in the processing of the Report. This also applies to those about whom a Report relates insofar as the Report is declared unfounded.
2. The Reporter must suffer no detriment whatsoever with respect to his status, including his legal status, within the EUR in consequence of reporting a suspicion of wrongdoing in good faith and in a proper manner, and insofar as he derives no personal advantage from the wrongdoing or the reporting thereof.
3. The Executive Board will ensure as far as possible that the Reporter also does not otherwise suffer detriment in performing his duties or following his studies in consequence of a Report made in good faith and in a proper manner.
4. The Executive Board will also ensure as far as possible that persons involved in handling a Report of a suspicion of wrongdoing, including the Confidential Counsellor, suffer no detriment whatsoever with respect to their legal status, or otherwise in performing their duties, in consequence of making statements or performing tasks specified in these Regulations in good faith.
5. If a decision is taken to dismiss a Reporter, or not to promote him to a higher position or salary scale, the Executive Board must give reasons to substantiate that this decision is not related to the Report made in good faith.
6. The prohibition of disadvantaging does not apply to:
 - a. a Reporter who has made in bad faith a false and/or deceitful Report;
 - b. a person who acts in conflict with this Scheme;
 - c. a person who does not act or has not acted in good faith; these actions being part of the Investigation.

Article 2.4 – Confidentiality

1. Each Report is handled in confidence. All persons who are directly or indirectly involved in the Report must observe strict confidentiality with respect to all the information obtained in this regard.
2. If a Report is not made anonymously, the identity of the Reporter should be handled confidentially. Only when a Reporter expressly makes his or her own identity known, or gives express Written permission for this, can the obligation to confidentiality be lifted.
3. In the case of a non-anonymous witness, the identity of the witness should be handled confidentially. Only when a witness expressly makes his or her own identity know, or gives express Written permission for this, can the obligation to confidentiality be lifted.
4. The Committee may instigate a further Investigation into any breaches of confidentiality.
5. After verifying the breach of confidentiality, the Committee may take further measures to protect confidentiality. These measures may extend to the way in which the Investigation is conducted.
6. Violation of the obligation to confidentiality, which compromises the establishment of the truth, can lead to the processing of the Report being stopped by the Committee, with the Executive Board and Parties concerned being informed of this.
7. The Executive Board can take appropriate measures against the person who violated the confidentiality obligation.
8. Confidentiality does not apply to the sharing of information between the Secretary, Committee and other persons appointed by the Executive Board or the Committee.

Article 2.5 – Processing personal data

1. The Committee only collects and processes Personal Data necessary for handling the Report and for issuing the Report recommendations ([Article 6 paragraph 1 sub c GDPR](#)) in accordance with [EUR Privacy Policy](#).
2. Personal data will only be provided by the Executive Board or Committee to third parties within the contexts of this Scheme and/or if a legal obligation applies.

Article 2.6 – Implementation of authorities

1. The following authorities from the Awb apply to this Scheme as administered by the Committee:
 - a. [Article 9:4 Awb](#) (remedy of omission);
 - b. [Article 9:6 Awb](#) (confirmation of receipt);
 - c. [Article 9:8 Awb](#) (processing of a Report);
 - d. [Article 9:10 Awb](#) (the hearing);
 - e. [Article 9:12a Awb](#) (registration of processing the Report).

Chapter III – The Committee

Article 3.1 – Appointment

1. The Executive Board appoints the Chairs and members of the Committee, after the University Council has been consulted, for a period of four years. The Chairs and members may be reappointed.

2. The Chair and members of the Committee may not form part of and may not work at or for EUR.

Article 3.2 – Composition and Recusal

1. The Committee has three members, including the Chair and a Lawyer.
2. The Committee members must not in any way be involved or have been involved with the Suspicion of Wrongdoing, the Parties concerned or the Reporter.
3. The Chair or another member of the Committee may recuse themselves.
4. In the event of a Recusal, the Committee member concerned will be replaced by another member, or a new Committee will be appointed.

Article 3.3 – Dismissal

1. After being heard, a Chair or a member may be dismissed from the Committee by the Executive Board if the Executive Board considers that there are important reasons for this.
2. At their own request, a Chair or a member may be dismissed from the Committee at any time.
3. Membership of the Committee will be legally terminated if the member accepts a position that is incompatible with membership of the Committee as referred to in Article 3.1, paragraph 2, of the Scheme.

Article 3.4 – The Secretary

1. The Committee is assisted by a Secretary who, to execute the work, follows the instructions of the Chair.

Article 3.5 – Remuneration for the Chair and other members

1. The Chair and members of the Committee receive remuneration in accordance with the Attendance Allowance Regulations adopted by the Executive Board.

Article 3.6 – Tasks and powers of the Committee

1. In consideration of that referred to in Article 4.4 of this Scheme, the Committee issues recommendations to the Executive Board, without instructions or consultation, regarding the validity or invalidity of the Report based on the Investigation. If no advice can be issued about the validity or invalidity of the Report, this will be detailed in the advice to the Executive Board.
2. The Committee will not advise on any measures to be taken by the Executive Board.
3. The Committee is authorised to provide solicited or unsolicited advice about the policy to be adopted by the Executive Board with respect to preventing Wrongdoings within EUR.

Article 3.7 – Modus Operandi

1. The Executive Board provides the Committee, on request or otherwise, with all the information the Committee needs to perform its tasks satisfactorily.
2. The Committee is authorised to obtain information from former and current Officers, former and current Students, former and current Trainees and EUR bodies. It can request access to all documentation and correspondence that it considers important in order to assess the Report.
3. The Committee can consult specialists and engage investigation agencies.
4. The Committee Chair will lead the investigation.

5. The Committee's procedural decisions are not eligible for appeal or objection.
6. By virtue of its office, the Committee can combine Reports regarding the same or related topics and split combined topics.

Chapter IV – The Procedure ([Article 2 WAA](#))

Title I – The Report

Article 4.1 – Reporting process

1. The Report can be submitted in Writing or verbally by the Reporter to the Confidential Counsellor, the Ombudsperson, the Manager or the Committee.
2. A Written Report can also be submitted via CK@eur.nl.
3. A Report can be made anonymously. Due to the anonymity of the Reporter, the prohibition on disadvantaging as referred to in article 2.3 of this Scheme cannot be guaranteed.
4. A Written Report will be submitted to the Committee in Dutch. If it is more efficient to use a different language and the interests of the Parties concerned are not unreasonably harmed, this other language can be used ([Article 2:6 Awb](#)). The Chair determines which language is efficient.
5. The Written Report (not submitted anonymously) should in any event contain:
 - a. the name, position, former or current legal relationship, address, e-mail address and telephone number of the Reporter; and
 - b. the name and position of the persons about whom the Report relates; and
 - c. a clear description of the Suspicion of Wrongdoing and the time period in which this took place; and
 - d. the date; and
 - e. documentation or other evidence relating to the Report.
6. A Report may be fully or partially refused pursuant to [Article 2:15 Awb](#).
7. The Committee will confirm the receipt of the Report to the Reporter.
8. The Secretary will inform the President of the Executive Board verbally regarding the fact that a Report has been received and the content of this, in which the identity of the Reporter will not be released. Throughout the processing of the Report, the Executive Board will only be kept informed of the procedural progress. The Executive Board will only be informed of the detailed content when the recommendations are submitted, taking into consideration that referred to in article 3.6 of this Scheme.

Article 4.2 – Forwarding

1. If the Written Report, in accordance with article 4.1 paragraph 1 of this Scheme, is submitted to someone other than the Committee, this person should forward the Report to the Committee without delay.
2. A verbal Report should be written down by the Confidential Counsellor, Ombudsperson or Manager and, following approval of the Reporter, forwarded to the Committee.
3. A verbal Report to the Committee should be written down by the Chair and, following approval of the Reporter, processed in accordance with Article 4.4 of this Scheme.

4. The person to whom the Report is made will inform the Reporter in Writing that the Report has been forwarded.

Article 4.3 – Remedy of Omission and Adjournment of the Term for the Decision

1. If the requirements presented in Article 4.1 of these Regulations are not met, the Committee will give the Reporter the opportunity to remedy the omission within a period of ten working days.
2. The term within which the Committee must decide whether to process the Report will be suspended as from the day following the day on which the Reporter was requested to remedy the omission until the day on which the omission is remedied or the term set for it expires unused.
3. If the Reporter has not remedied the observed omission within the period of ten Working Days, the Committee can decide not to process the Report.
4. Deadlines will be suspended until the Reporter has remedied the omission or the term set for this has expired unused.

Article 4.4 – Committee Decision relating to processing a Report

1. If a Report can be processed, the Reporter will be informed of this in Writing by the Committee, with the Reporter also being given a non-binding indication of the duration of the investigation.
2. Until the Investigation is concluded, the Reporter will be kept informed of progress in Writing once a month.
3. The Committee can decide not to process a Report if:
 - a. there is an issue of conflict with [Article 2:15 Awb](#);
 - b. the request by the Committee to remedy an omission or addition in relation to Article 4.3 paragraph 3 of this Scheme has not been met in time;
 - c. the Suspicion of Wrongdoing is not based on reasonable grounds and is therefore clearly unfounded;
 - d. the Report relates to a Wrongdoing that dates back longer than five years before the Report was submitted;
 - e. the person to whom the Report relates does not have or has never had a Legal Relationship with EUR;
 - f. the societal interest of an Investigation or the seriousness of the Wrongdoing is clearly insufficient;
 - g. the Suspicion of Wrongdoing is to be assessed by:
 - a. departments charged with investigating criminal acts;
 - b. departments charged with supervision of compliance with legal provisions;
 - c. the [Whistleblower Authority Act](#).
 - h. another Report relating to this same Wrongdoing has been rejected by the Committee, unless a new fact or a new circumstance has become known that could have led to a different judgement regarding the Wrongdoing concerned;
 - i. final and binding judgement by a competent authority about the wrongdoing.
1. If the Report is not to be processed, the Reporter will be informed of this in Writing, stating the period within which the Reporter may submit an appeal to the Ombudsman.

Article 4.5 – Suspension of Investigation

1. The processing of the Report and the investigation can be suspended if:
 1. The Reporter, in the Committee’s opinion, does not collaborate sufficiently in the careful course of the Investigation and the safeguarding of confidentiality of the outcomes of the Investigation; or
 2. A new fact or new circumstances becomes known, on the basis of which the Committee comes to the judgement that the Report is unfounded.
3. If the Investigation is suspended, the Committee will inform the Reporter of this in Writing, stating the period within which the Reporter may submit an appeal to the Ombudsman.

Title II – Processing of the Report by the Committee

Article 4.6 – Investigation by the Committee

1. The Committee will decide whether or not to process the Report within six weeks of receiving the Report.
2. To conduct an Investigation, the authorities as referred to in Article 3.6 and Article 3.7 of these Regulations will be exercised.
3. The Committee aims to advise the Executive Board within a year of starting the Investigation. If this term is not feasible, the Parties concerned will be informed.
4. During the Investigation, the Committee will operate based on a fair hearing.

Article 4.7 – The Hearing

1. The Committee will give the Reporter and the person(s) about whose behaviour the Report relates the opportunity to state their case.
2. The Committee can arrange hearings for the Reporter, the Parties concerned, witnesses and specialists.
3. The person who is heard, with a view to the possibility of imposing a punitive sanction is not obliged to make any statements about the breach. Prior to the hearing, the person involved in the hearing will be notified that he is not obliged to answer.
4. Parties concerned can submit further documentation up to ten working days prior to the hearing.
5. The hearing is not public.
6. The hearing will be held by the Committee or the Chair or a member of the Committee, in the presence of the Secretary.
7. The Parties concerned will be heard in person and in principle not in each other's presence. If the Committee considers this necessary, the Parties concerned may be heard in each other's presence.
8. The Committee will take an audio and/or video recording of the hearings. The recordings will remain in the possession of the Committee and will be deleted after the available legal remedies have been used.

Article 4.8 – Assistance

1. Parties concerned may be supported by a Confidential Counsellor and an authorised representative.

2. Costs relating to the assistance will be charged to the person receiving support.
3. A Reporter can obtain free advice from the [Advice department of the Whistleblowers Authority](#).
4. Those involved may be eligible for legal aid from the Legal Aid Board. Information about this possibility can be found here: [Legal Aid Board](#).

Article 4.9 – Interpreter ([Article 2:6 Awb](#)).

1. When a request for subsidised 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 concerned do not speak Dutch.

Article 4.10 – Reporting

1. After the hearing, the report of the hearing will be sent to the person who was heard, with the request to return the report within five working days, signed for approval, if necessary with a separate detailed response, which should be added to the end of the report. If the report is not returned within five working days, the report will be legally adopted.
2. The report of the hearing and the Written responses will be sent to the Executive Board.
3. The Committee will not share any reports about each other’s hearings between the Reporter and the Parties concerned and these will not form part of the recommendations.

Article 4.11 – Anonymous witness

1. A Written Statement whereby the identity of the witness is not published and is therefore not verifiable will not be taken into consideration by the Committee.

Title III – Processing recommendations by the Executive Board

Article 4.12 – Processing recommendations by the Executive Board

1. The Committee issues Written recommendations to the Executive Board in Dutch.
2. Within four weeks of receiving the recommendations from the Committee, the Executive Board will record its decision and send a Notification of this to the Parties concerned, together with a copy of the Committee’s recommendations.
3. The Executive Board will formulate the Notification in Dutch. If the Executive Board considers it prudent to do so, the Notification will include a full translation in English.
4. The Executive Board will also send the Notification to the Committee for information.
5. If the viewpoint of the Executive Board differs from the recommendations issued by the Committee, the reason for this difference will be detailed in the Notification.
6. This Notification will state that the Reporter may submit an petition to the Ombudsman within the period of a year.

Title IV – External report to The Whistleblowers Authority

Article 4.13 – External report ([Article 4 WAA](#))

1. At any stage of the procedure, an external report of the Suspicion of Wrongdoing may be made to and through the [Whistleblowers Authority](#).
2. An external report as referred to in Article 1 of this article does not qualify as a violation of the confidentiality obligation as referred to in Article 2.4 of this Scheme with respect to the information provided to the Whistleblowers Authority. For the rest, the confidentiality obligation remains.
3. If there is reasonable suspicion of a criminal offense or a serious danger to public health or safety of the environment, Reporter can report this directly to the competent authority.

Chapter V – Concluding provisions

Article 5.1 – Complaint against the Executive Board

1. If a Report is submitted about a member of the Executive Board then, in this Scheme, reference to 'Executive Board' will be replaced by 'Supervisory Board'.
2. The Supervisory Board can decide to form the Committee using a different Chair and different members than those already appointed by the Executive Board.

Article 5.2 – Interpretation

1. In cases not covered by this Scheme or in cases where this Scheme may be interpreted in several ways, the decision will rest with the Executive Board.
2. The Executive Board may take a decision that differs from the provisions of or pursuant to this Scheme.

Article 5.3 – Translation

1. If there are any inconsistencies between a translation of this Scheme and the Dutch version, the Dutch version shall prevail.

Article 5.4 – Publication

1. The Board will publish this Scheme on the EUR website.

Article 5.5 – Entry into force

1. This Scheme will come into effect at a time yet to be determined by the Executive Board.

Article 5.6 – Short Title

1. These regulations are referred to as: 2021 Whistleblowers Regulations.

Article 5.7 – Revocation

1. Previous versions of these regulations will be revoked on the date on which this Scheme takes effect.

Article 5.8 – Applicable Law

1. This Scheme is governed exclusively by Dutch law.

Article 5.9 – Administration of Regulations

1. This Scheme is administered by the General Management Directorate, Legal Affairs Department.