

EUR Complaints Procedure for Undesirable Behaviour (Sexual Harassment, Aggression, Violence, Bullying and Discrimination).

(March 2008)

Article 1 – Definitions

1. The term *undesirable behaviour* is taken to mean: direct or indirect undesired comments or actions which are expressed in verbal, non-verbal, physical or psychological behaviour towards a person who experiences these comments or actions as undesirable and unwanted and which constitute a violation of said person's integrity, in such a way that this results in psychosocial work or study stress; said comments or actions shall include sexual harassment, aggression, violence, bullying and discrimination.
2. The term *sexual harassment* is taken to mean: any form of verbal, non-verbal or physical behaviour with a sexual connotation that is intended to prejudice the dignity of a person, or has that consequence, in particular through the creation of a threatening, hostile, insulting, humiliating or offending situation.
3. The terms *aggression and violence* are taken to mean: instances whereby an employee or a student is harassed, threatened or attacked psychologically or physically, in circumstances which are directly linked to the performance of work or the pursuit of studies.
4. The term *bullying* is taken to mean: all forms of intimidating behaviour of a structural nature, by one or more employees (colleagues, superiors) towards one or more colleagues or students, directed at an employee/student or a group of employees/students who are unable, or find it difficult, to defend themselves against this behaviour.
5. The term *discrimination* is taken to mean: any comment or action that results in unfair treatment, being placed at a disadvantage or being in a deprived state on the grounds of characteristics such as sexual orientation, gender, political persuasion, life principles, skin colour and religion, in circumstances which are directly related to the performance of work or the pursuit of studies.
6. The term *complainant* is taken to mean: an employee or a student of EUR who submits a complaint relating to sexual harassment, aggression, violence, bullying or discrimination.
7. The term *accused* is taken to mean: an employee or a student whose behaviour is the subject of the undesirable behaviour complaint referred to in paragraph 6.
8. The term *employee* is taken to mean:
 - a person with a permanent or temporary contract of employment with EUR;
 - a person who, whether on the basis of an agreement with a third party or otherwise, performs work at EUR, such as guest lecturers, seconded staff, trainees and temporary staff;

This complaints procedure is also applicable to:

- any person who stays at EUR based on an invitation or under a contract.

9. The term *student* is taken to mean:
 - a person who is registered for an initial programme provided by EUR;
 - a person who is registered for a non-initial programme, course, etc. provided by EUR.
10. The term *confidential counsellors* is taken to mean: the EUR employees designated by the Executive Board, on behalf of the members of staff and students who are tasked, within the framework of these regulations, to:
 - assist and advise anyone who intends to submit a complaint to the Executive Board, or who has already submitted a complaint, relating to sexual harassment, aggression, violence, bullying or discrimination, hereinafter to be referred to as: the complainant(s);
 - provide information on the complaints procedure described by virtue of or pursuant to these regulations;
 - search for a solution to the problems identified by the complainant(s);

- advise the Executive Board and the administrators - whether on their own initiative or on request - regarding the policy to be adopted or other matters relating to undesirable behaviour.
11. The term complaints committee is taken to mean: the permanent advisory committee set up by the Executive Board to investigate and assess any complaint relating to sexual harassment, aggression, violence, bullying or discrimination, if requested to do so, and to advise the Executive Board regarding measures to take or not to take.

Article 2 – The right to complain

1. A complaint relating to sexual harassment, aggression, violence, bullying or discrimination can be submitted by an employee or a student, hereinafter referred to as 'the complainant', who is experiencing or has experienced this undesirable behaviour in his/her work or study situation at EUR.
2. The complaint, as referred to in the first paragraph, must relate to the conduct of an employee or a student, hereinafter referred to as 'the accused'.
3. A former employee or ex-student still has the right to submit a complaint, as referred to in the first paragraph, until three months after the end of his/her appointment or registration if the accused is/are still employed by EUR or is/are still registered as a student or course participant at that point in time.
4. An employee or a student can retract a complaint at any time.
After receipt of the retraction of a complaint, the handling of said complaint will be immediately suspended and the documents relating to the complaint will be removed from the files in question.

Article 3 – The submission of a complaint; the confidential counsellor

1. Complaints must be submitted to the Executive Board in writing, stating the reasons for the complaint, preferably via a confidential counsellor. If a complaint is submitted directly to the Executive Board, the confidential counsellor concerned will be informed as soon as possible and will be given an opportunity to advise the Executive Board on the complaint and the handling of the complaint.
2. If a complaint is submitted to the Executive Board via a confidential counsellor, this confidential counsellor will advise the Executive Board on the complaint and how to handle the complaint.
3. The confidential counsellor is authorised to mediate with regard to a complaint received, before submitting this complaint to the Executive Board, and has the right to obtain all the information that is necessary for the responsible performance of his/her duties.
4. The confidential counsellor is accountable to the Executive Board for the performance of his/her duties.
5. The confidential counsellor is obliged to maintain secrecy with regard to all information brought to his/her attention in relation to a complaint or intended complaint of undesirable behaviour. This obligation to maintain secrecy does not apply with regard to a fellow confidential counsellor, the complaints committee, the Executive Board, the officials designated by the Executive Board and any medical counsellor, or an authorised officer from the Police, the Ministry of Justice or the Inspectorate.
6. The confidential counsellor will keep a register of complaints or intended complaints brought to his/her notice and will provide a confidential and anonymised report to the Executive Board accordingly every year.

7. The Executive Board will inform the University Council confidentially about the annual report by the confidential counsellor(s).

Article 4 – The method of handling the complaint

1. Depending on the nature, scope and seriousness of the complaint, and in view of the advice received on the matter from the confidential counsellor, the Executive Board will decide, within three weeks after receipt of a complaint, as to whether the complaint is to be handled by an administrator or by the complaints committee.
If the complainant(s) or the accused has/have indicated that they object to the complaint being dealt being handled by an administrator, the complaint will be sent for handling by the complaints committee.
2. The Executive Board will immediately inform the complainant(s) that the complaint has been received and about how it will be handled.
3. The Executive Board will itself decide with regard to the imposition of a measure as referred to in Article 8 of these regulations.

Article 5 – The handling of a complaint by an administrator

1. After receiving a complaint, the administrator will hear the complainant(s) as soon as possible.
2. The administrator will inform the accused about the complaint and will hear him/her/them, preferably in the presence of the complainant(s), unless the complainant(s) or the accused have indicated that they wish to be heard without the other party being present.
The administrator will draw up a written report on the hearing of the complainant(s) and the accused which will be submitted for comments to the complainant(s) and the accused. This report - including any comments by the parties involved - will be added to the advice issued by the administrator to the Executive Board.
3. The complainant(s) and the accused may call in an advisor or a counsellor to provide assistance. The related costs shall be at the expense of the party seeking assistance.
4. At the request of the complainant(s) or the accused, the administrator can hear witnesses, experts or other parties who are directly involved.
5. The administrator will inform the complainant(s) and the accused, within no more than two months after receipt of the complaint, about his/her findings and will submit a confidential report accordingly to the Executive Board.
6. If the administrator considers the complaint to be well founded, he will issue a report to the Executive Board regarding the provisions he or she has implemented and can submit proposals, with reasons, to the Executive Board to implement a measure as referred to in Article 8 of these regulations.
7. The administrator is obliged to maintain secrecy in respect of everything brought to his/her attention with regard to a complaint relating to sexual harassment, aggression, violence, bullying or discrimination.

Article 6 – The Complaints Committee

1. The Executive Board will appoint a permanent complaints committee on sexual harassment, aggression, violence, bullying or discrimination.
2. The Complaints Committee will have three members and three deputy members. In any event, one of the members of the Committee must be a lawyer.
3. The members and deputy members of the Complaints Committee will be appointed by the

Executive Board for three years, after the University Council has expressed an opinion. Thereafter they will be eligible for reappointment.

4. The members and deputy members of the Complaints Committee are obliged to maintain secrecy with regard to everything that is brought to their attention with regard to a complaint of sexual harassment, aggression, violence, bullying or discrimination. This obligation to maintain secrecy does not apply with regard to the confidential counsellor, the Executive Board, the officials designated by the Executive Board and any medical counsellor, or an authorised officer from the Police, the Ministry of Justice or the Inspectorate.
5. The Complaints Committee is authorised to obtain all the information necessary for the responsible fulfilment of its duties.
6. The Complaints Committee is authorised to impose additional rules in relation to how it works. These additional rules require the approval of the Executive Board.
7. The Complaints Committee is also authorised to advise the Executive Board, whether requested to do so or otherwise, regarding the policy to be adopted by the Executive Board regarding preventing or eliminating sexual harassment, aggression, violence, bullying or discrimination at EUR.
8. Every year the Complaints Committee, after hearing the opinions of the confidential counsellor(s), will issue a confidential and anonymised report on its work to the Executive Board. This annual report will be communicated confidentially to the University Council.
9. The secretarial work for the Complaints Committee will be carried out by the EUR Legal Affairs Department. This secretariat will file the documents relating to the work of the Complaints Committee in confidential archives.

Article 7 – The handling of a complaint by the Complaints Committee

1. After receiving a complaint, the Complaints Committee will hear the complainant(s) as soon as possible.
2. The Complaints Committee will inform the accused about the complaint and will hear the accused, preferably in the presence of the complainant(s), unless the complainant(s) or the accused have indicated that they wish to be heard without the other party being present.
3. The complainant(s) and the accused may call in an adviser or a counsellor to provide assistance. The related costs shall be at the expense of the party seeking assistance.
4. At the request of the complainant(s) or the accused, witnesses, experts or other parties directly involved can also be heard.
5. The Complaints Committee will draw up a written report on the hearing of the complainant(s) and accused, which will be submitted for comments to the complainant(s) and the accused. This report - including any comments by the parties involved - will be added to the advice issued by the Complaints Committee to the Executive Board.
6. No later than ten weeks after receipt of the complaint, the Complaints Committee will issue advice - with reasons - to the Executive Board regarding measures to be taken by the Executive Board, including a measure as referred to in Article 8 of these regulations. If the period referred to in the first sentence turns out to be insufficient, the Complaints Committee can extend this period by a maximum of four weeks. The Complaints Committee will inform the complainant(s) and the accused to this effect in good time.

Article 8 – Executive Board decision-making regarding a complaint; measures

1. By no later than three weeks after receipt of the advice from an administrator or from the

Complaints Committee, the Executive Board will issue a decision, stating its reasons, as to whether the complaint is well founded and if so, what measure(s) will be taken against the accused.

2. If the Executive Board finds that a complaint against an EUR employee is well founded, a disciplinary measure can be taken as referred to in the Collective Labour Agreement of Dutch Universities ('CAO Nederlandse Universiteiten').
3. If the Executive Board finds that a complaint against a student registered at EUR or using EUR facilities in some other way is well founded, a measure can be taken as provided for in the EUR regulations concerning the upholding of order within the university buildings and on the university sites and with regard to the efficient or lawful use of university facilities (as adopted in March 2000 and revised in 2004).

Article 9 – Objection or appeal

A decision by the Executive Board that is deemed to be a decision as referred to in Article 1:3 of the General Administrative Law Act ('Algemene wet bestuursrecht'), as referred to in Article 8 of these regulations, is open to objection or appeal pursuant to the provisions in the General Administrative Law Act in conjunction with the Higher Education and Scientific Research Act ('Wet op het hoger onderwijs en wetenschappelijk onderzoek').

Article 10 – Reporting incidents

1. In the event that a complainant has reported an incident of sexual harassment, aggression, violence, bullying or discrimination to an investigating officer, whereby there is a suspicion that a criminal act has been committed, the Executive Board will cooperate with the police or judicial investigation resulting from this report.
2. In an event such as referred to in the first paragraph of this article, the Executive Board can itself initiate an investigation by the Complaints Committee.
3. In an event such as referred to in the first paragraph of this article, the Higher Education Inspectorate ('Inspectie van het Hoger Onderwijs') in the person of the Higher Education Confidential Inspector ('Vertrouwensinspecteur van het Hoger Onderwijs') will be informed of the incident report.

Article 11 – Final stipulation

In instances that are not provided for in these regulations, the Executive Board, in a departure from the rules laid down by or pursuant to these regulations, may take a decision itself insofar as is reasonable, equitable and necessary.