

EUR HOLDING BV REGULATIONS ON REPORTING ALLEGED MISCONDUCT ¹

Preamble

EUR Holding BV² and its subsidiary companies (LLCs) consider it important, in supporting good governance and a sound organisational culture, to provide a clear procedure for reporting (alleged) misconduct within their organisation(s). This procedure should lead to employees, members of supervisory boards, students, clients and others who are, or have been involved either with EUR Holding BV or any of its subsidiaries to adequately and safely report any (alleged) illegal or immoral practices that occur within or in relation to EUR Holding BV or its subsidiaries. In practice, this means that any one of these parties who would report, in good faith, (alleged) abuse or wrongdoing would not be placed at a disadvantaged (legal) position. Reporting alleged misconduct is also in the interest of the organisation. Surely, timely knowledge of alleged wrongdoing can ensure that the right measures are taken to prevent harmful practices that might occur within the organisation. These regulations describe the procedure that these parties should follow in case of (alleged) malpractice. The aim is to provide a clear and safe procedure, so that any whistleblowing or informing of wrongdoing can be treated adequately.

These regulations are based on similar regulatory texts from Dutch universities, including Erasmus University Rotterdam (EUR), and apply to EUR Holding BV and its subsidiaries. They are intended as an initial attempt to internal handling of any (alleged) misconduct. When this fails, the reporting, or whistleblowing is handled externally. Reporting (alleged) misconduct is thus primarily done and encouraged within the organisation. This allows the CEO and management of EUR Holding BV or subsidiary to address and try to resolve the problem internally. If this does not lead to a satisfactory solution, the informant may turn to an external body.

Regulatory text

Article 1 - Definitions and scope of the regulations

1. In these regulations, the following terms have the following meanings:
 - a. EUR Holding BV: Erasmus University Rotterdam Holding BV (EUR Holding BV) is the private company and entity as incorporated under its articles of association, as well as the subsidiary companies in which EUR Holding BV has a controlling interest.
 - b. Subsidiary company: a company in which EUR Holding BV has a controlling interest.
 - c. LLC: the limited liability company (LLC) involved in the case, either the parent EUR Holding BV, or one of its subsidiary companies (LLCs) as referred to in section c of this Article.
 - d. CEO Holding BV: the chief executive officer (managing director) of EUR Holding BV.
 - e. CEO or Supervisory Board (Vice) Chair: the managing director or (vice) chair of the supervisory board of EUR Holding BV or one of its subsidiaries (LLC). If a complaint is submitted by the CEO, or that he is the subject of the complaint, the Chair of the supervisory board of the involved LLC may exercise *mutatis mutandis* the powers of the CEO. The vice chair of an LLC may also exercise the powers of the supervisory board chair of the involved LLC under these regulatory provisions.

¹ This text is an English translation of the Dutch original. In case of any divergence of interpretation, the Dutch text shall prevail.

² BV (*besloten vennootschap*) is a Dutch business structure similar to a private limited liability company (LLC).

- f. Supervisory Board: the supervisory board of the subsidiary company (LLC) referred to in the complaint.
 - g. Employer: the subsidiary (LLC) with whom the person involved in the case has a binding employment agreement.
 - h. Employee: a person who is permanently or temporarily employed by an LLC, or a person who carries out, or who has carried out activities for an LLC, under a contract with a third party or otherwise, such as a guest lecturer or guest researcher, a seconded member of staff, a work placement trainee, a flex worker or temporary employment agency worker, as well as a member of an LLC Supervisory Board or any person who works for or is hosted by an LLC by invitation, or on a contractual basis. The term “employee” also includes ex-employees who have had an employment contract with an LLC within the past three years
 - i. Student: a person who is enrolled with an LLC in either a postgraduate programme, course, workshop, seminar, conference, or other form of educational activity. The term “student” also includes ex-students who have studied with the LLC within the past three years.
 - j. Client: a physical person or legal entity making use of the services supplied by an LLC, as well as their employees. The term “client” also includes ex-clients who have had a contract with an LLC within the past three years.
 - k. Third party: any person other than an employee, student or client, who by virtue of his³ relationship with the LLC witnesses or suspects wrongdoing, as referred to in these regulations.
 - l. Incident Report: a notification of an employee, student, client or third party on misconduct.
 - m. Informant: the person who reports alleged misconduct.
 - n. Legal counsel: any person who advises or otherwise represents the informant in connection with his report on wrongdoing, and who is subject to an obligation of confidentiality on account of his position, such as a company doctor, a lawyer, or a trade union legal advisor.
 - o. Witness: a person who makes a statement about what he/she has observed regarding an alleged misconduct incident or behaviour.
 - p. Alleged misconduct: illegal or immoral practices with regard to an LLC concerning:
 - an (imminent) criminal offense, such as theft, corruption and forgery,
 - a gross (imminent) violation of regulations or policies of EUR Holding BV or one of its subsidiary companies (LLC).
 - an (imminent) danger to public health, safety or the environment,
 - a (threat of) deliberate misinforming of public bodies; and/or
 - a (threat of) deliberate withholding, destruction or manipulation of information on facts described above.
 - q. Confidential Counsellor: the person designated by the CEO of EUR Holding BV with whom the informant can discuss the alleged misconduct before deciding whether or not to file an incident report.
 - r. COOM: the Committee on Undesirable Behaviour and Misconduct as referred to in Article 2 of these regulations.
2. These regulations are not intended for:
 - a. reporting employee complaints about matters related to their employment contract that affect them personally; and/or
 - b. expressing criticism towards an LLC’s policy decisions.
 3. A report or complaint regarding (suspected) violations of scientific integrity including any scientific misconduct, misrepresentation and unlawful exercise of intellectual property rights shall be treated in accordance with the procedure described in the Regulations on Scientific Integrity EUR.

³ In these regulations, 'he', 'his' or 'him' should also be understood to mean 'she' or 'her'.

4. A report or complaint with respect to undesirable behaviour, including sexual harassment, aggression and violence, bullying and discrimination in the workplace and study environment is treated in accordance with the procedure described in the *EUR Holding BV Regulations on Reporting Undesirable Behaviour and Complaints Procedure*.
5. When alleged misconduct involves the CEO of an LLC, the employee, student or client may report this directly to the Chair of the LLC Supervisory Board. The Chair of the Supervisory Board shall treat the report as far as possible in accordance with these regulations, in which case the relevant provisions in place of 'CEO of the named LLC' should read 'the Chair of the LLC Supervisory Board'.

Article 2 - Committee on Undesirable Behaviour and Misconduct (COOM)

1. The CEO of EUR Holding BV shall establish a permanent Committee on Undesirable Behaviour and Misconduct (hereinafter referred to as the COOM or Committee). This committee handles, investigates, and evaluates all incident reports of misconduct and gives the CEO of the LCC in which the (alleged) misconduct is reported an assessment of its findings and recommendations on any measure to be taken (e.g. formal warning, disciplinary action, dismissal, expulsion).
2. The COOM consists of six members. The Chair and Vice Chair will be appointed officials by the CEO of EUR Holding BV. The members will be appointed for a period of two years, and may be immediately reappointed at the end of this period. There has to be sufficient expertise within the committee in the field of law. The COOM shall draw up a retirement schedule. This shall be drawn up so that no more than half of the committee members retire during the same year.
3. The COOM handling a reported case of misconduct is constituted each time in relation to that specific report. Furthermore, the COOM must always be attended by at least three members, including the Committee's (Deputy) Chair.
4. The Committee may decide to entrust the investigation of a reported case of misconduct to one of its members, who will examine the case on behalf of the Committee.
5. If the Chair, Vice-Chair, or one of the other COOM members is directly or indirectly involved in a filed incident report for assessment, he is not allowed to be a committee member investigating the report. Any of the parties involved in the reported incident may petition for recusal of any committee member based on facts or circumstances that might impede that member's impartial judgement. Committee members may also recuse themselves on the grounds of such facts or circumstances. A petition for recusal must be made as soon as the relevant facts or circumstances become known to the petitioner. The committee shall take a decision about a petition for recusal as quickly as possible and inform all parties of its decision, and reasons for the decision.
6. The meetings of the COOM are closed. A decision or resolution shall be passed by a majority of the votes cast by COOM members. In the event of a tied vote, the (Deputy) Chair shall cast the deciding vote.
7. The COOM shall be assisted by a Secretary who is not a member of the COOM. The position of Secretary cannot be held by a Confidential Counsellor. The COOM Secretary is charged with the drawing up of meeting and hearing reports, and of draft recommendations of the committee.
8. The COOM has the authority to gather all information and advice which it deems necessary to conduct its assigned tasks.
9. The COOM has the authority to modify or set additional rules in relation to its functioning. These additional rules must be approved by the CEO of EUR Holding BV.
10. The COOM has the authority to advise CEOs of LLCs, either at their request or proactively, about the policy to be adopted for prevention and deterrence of misconduct within LLCs.
11. The committee members, and all third parties called upon by the committee in an investigation, shall have a duty of confidentiality in relation to all that which comes to their knowledge on account of their involvement in the investigation

12. Each year, the COOM shall provide a confidential and anonymised detailed report to all CEOs of all LLCs about its activities, including the number of reported cases of wrongdoing, the nature of the incidents handled, and its recommendations after assessment of the incident reports, without being traceable to persons' identities.
13. Records and files relative to cases of wrongdoing handled by the COOM (under these regulations) shall be kept in a sealed (non-public) archive at the COOM's administration office for a period of 10 years after handling. At the end of this period the records and files shall be destroyed by the COOM. If an incident report is withdrawn, the file is immediately destroyed.

Article 3 - Internal reporting of misconduct

1. Unless there is an exception as referred to in Article 5, the internal reporting procedure set out in Article 4 of these regulations applies.
2. Reports must be filed in writing within a period of three years after the incident of misconduct is noticed.
3. The informant reporting misconduct is not expected to supply proof of misconduct but must be able to demonstrate that there are sufficient grounds for a reasonable suspicion of misconduct. He must also provide as much information as possible when reporting: names, dates and places, the circumstances in which the misconduct has occurred and the reason for reporting.
4. The informant and all officials involved in the handling of a report shall treat the report as confidential. All parties concerned in the reporting of misconduct must make every effort to prevent or limit as far as possible any (further) damage to persons and interests.
5. Persons involved in the handling of a report are subject to protect the identity of the informant. The informant may request from them that his identity remain confidential and shall be the only person to allow disclosure of his identity. This request shall be processed by the Committee (COOM) and honoured unless disclosure of the informant's name is refused on the basis of legal obligations. In the latter case, the COOM offers the informant the opportunity to withdraw his report within a reasonable period.
6. Anonymous incident reports will not be accepted.
7. The informant may withdraw his incident report at any time. On receipt of notice of withdrawal of a reported incident, its handling will cease immediately, and all the documents pertaining to the report will be removed from the relevant case files.

Article 4 - Reporting procedure

1. Unless subject to the exception in Article 6, the informant submits his/her incident report of (alleged) misconduct to the Committee on Undesirable Behaviour and Misconduct (COOM). An informant may be an employee, student, client or a third party.
2. If the employee, student, client or third party is reluctant to report misconduct to the COOM, he/she can first seek advice from the Confidential Counsellor before deciding whether or not to submit an incident report.
3. The Confidential Counsellor may refuse to handle a submitted incident report on the grounds of a conflict of interest, or if the (alleged) misconduct is inadmissible under these regulations. The Confidential Counsellor may then refer the person concerned to a different Confidential Counsellor or other body authorised to handle the case.
4. The employee, student, client or third party may seek assistance from legal counsel (at his/her own expense) before reporting misconduct. Legal counsel is bound by a duty of confidentiality.
5. Upon receiving an incident report, the Secretary of the Complaints Committee (COOM) shall indicate in writing the received time and date, request the informant's signature, and give him a copy of the completed report. The CEO of the LLC must be informed without delay of the reported suspicion of misconduct. If the (alleged) misconduct relates to the LLC CEO, the COOM

Secretary will inform the Supervisory Board Chair of the relevant LLC.. If the informant does not consent to disclosure of his identity, he will not sign for approval

6. If within reason it can be assumed that an alleged case of misconduct may pose a liability risk to EUR Holding BV, the CEO or the Chair of the Supervisory Board of the limited company (LLC) shall inform the CEO of Holding BV that an incident report has been received, while ensuring the privacy of the informant and any other persons mentioned in the report.
7. The limited company CEO or Supervisory Board Chair who was informed of the report by the COOM in accordance with paragraph 5 of this article, assesses whether an external third party (as referred to in Article 5) should be informed of the suspected misconduct.
8. Upon receipt of the incident report, the COOM shall investigate the case of misconduct without delay. The investigation is carried out in accordance with the provisions laid down in Article 2.
9. Within six weeks after receipt of the report, the COOM sends the CEO (or Supervisory Board Chair) of the LLC a written notification with its conclusions and recommendations regarding the misconduct. The notification is formulated in compliance with the confidential character of any (company) information to be provided and the legal provisions in force, such as privacy regulations. The COOM notifies the informant of having sent its advice to the CEO (or Supervisory Board Chair) of the LLC involved in the case.
10. The CEO or Supervisory Board Chair of the LLC company notifies the informant in writing within three weeks of receiving the advice from the Committee (COOM). This written notification includes the Committee's investigation findings, the conclusion (s) the CEO has drawn from these, and the actions to be taken regarding the incident report.
11. If the conclusion (s) as referred to in the previous paragraph cannot be given within nine weeks, the CEO or Supervisory Board Chair of the LLC company shall notify in writing the informant of an extended period before rendering his conclusions. This additional period shall not exceed six weeks.
12. The CEO or Supervisory Board Chair of the LLC company must always communicate his conclusions on a reported case of misconduct and the resolution thereof confidentially to the company (LLC) Supervisory Board, the CEO of EUR Holding BV, the COOM, and to the Confidential Counsellor if involved in the procedure. If his decision deviates from the recommendations made to him, he shall give substantiated reasons for deviating from recommendations.
13. If the informant:
 - a. has not yet received a decision within the required time period (including the extended period) as referred to in paragraphs 9,10 and 11 of this Article, or if;
 - b. finds that the time period (as referred to in paragraph 11 of this Article) is unreasonably long given all circumstances, and the person concerned has complained about this in writing to the LLC CEO, or;
 - c. cannot agree with the decision of the LLC CEO,then, he may turn to the Chair of the Supervisory Board of the LLC, who shall respond with respect to content within ten days after receiving the informant's request. If related to Paragraph 5 of this Article, the Chair is the subject of the complaint, the informant may turn to the Vice-Chair of the Supervisory Board of the LLC.

Article 5 - Rules Regarding Anonymous Witnesses

1. Witnesses who do not wish to disclose their identity during the reporting procedure may submit a written request of anonymity to the Committee (COOM).
2. In the event that the Committee does not grant the request, with justification and in writing, the witness may withdraw his/her incident report at any time.
3. When hearing an anonymous witness, only COOM members, the COOM Secretary and at the request of the witness, a Confidential Counsellor may be present.

4. In exceptional cases, the anonymous witness can give a testimony in writing. In such case, the COOM gets the opportunity to ask its questions in writing.
5. The record of the hearing is anonymised to protect the identity of the witness.

Article 6 - External reporting procedure

1. After going through the internal reporting procedure in accordance with provisions in Article 4 of these regulations, the informant may report a (reasonable) suspicion of misconduct to an external third party, as referred to in paragraph 5 of this Article under the following conditions:
 - a. the informant has not yet received a decision within the required period (and extended period) as referred to in paragraphs 8, 9 and 11 of Article 4; or
 - b. the informant does not agree with the decision in accordance to provisions in paragraph 8 and 11 of Article 4, and considers that the suspicion of misconduct has been wrongfully dismissed.
2. A third party, as referred to in paragraph 1 of this Article shall mean any person or (representative of) an organization other than the Confidential Counsellor, as referred to in Article 1, paragraph 1, sub-paragraph (n), or the legal counsel, as referred to in Article 1, paragraph 1, sub-paragraph (l), to whom the informant in good faith reports misconduct,
 - a. because he/she reasonably believes it to be in the public interest to do so, that the interest in the specific circumstances of the case outweigh the privacy interest of the employer, and
 - b. because he/she reasonably believes that a third party is more able to (directly or indirectly) neutralise misconduct.
3. Submitting an external report, in accordance with the provisions of paragraph 1 of this Article implies:
 - a. taking into account the effectiveness with which the third party can intervene; and
 - b. taking into account the interest of the LLC involved in the case, with the least possible damage resulting from such an intervention.
4. The informant may bypass the internal reporting procedure and report misconduct externally in situations that involve:
 - acute danger, where a serious and urgent public interest would require immediate external reporting;
 - a reasonable fear of reprisal or retaliation as a result of reporting wrongdoing;
 - an obvious threat of embezzlement or destruction of evidence;
 - a previous internal report of the same wrongdoing, made in accordance with the procedure laid down in these regulations, but which has not led to neutralising of the misconduct or wrongdoing;
 - a legal obligation to direct external reporting.
5. Since reporting to an external party could inflict greater damage to the LLC involved in the case, the informant's suspicion of misconduct must be strongly substantiated and proportional to the liability risk.

Article 7 - Legal protection of informant

1. The person who has reported misconduct in accordance with the provisions of these regulations will not be disadvantaged in any way at the limited company (LLC) with which he/she has an employment agreement.
2. A proposal to dismiss an employee within five years of having reported misconduct, or the refusal to issue a diploma to a student who has been an informant, must be reviewed by the CEO of EUR Holding BV.

3. Paragraphs 1 and 2 of this Article shall not apply if an informant has not acted in good faith and / or has sought personal gain from the wrongdoing or the reporting thereof. The informant can be held liable for damages resulting from such action.
4. The person to whom the report was made will not be disadvantaged in any way as a result of exercising his duties under these regulations.

Article 8 - Annual report on misconduct cases

1. The COOM is responsible for providing a confidential, anonymised annual report on reported misconduct cases to all CEOs of the limited companies (LLCs).
2. The anonymised report must contain:
 - a. The number of reported cases and the nature of the misconduct;
 - b. The number of reported cases of misconduct that were not investigated;
 - c. The number of reported cases that were investigated and what measures were taken after assessment.
3. The Committee (COOM) is authorized to advise LLC CEOs either at their request, or from its own initiative, on adopting policies to detect and deter misconduct behaviour within their organisation.

Article 9 - Final provisions

1. In situations that are not covered by these regulations, the CEO of EUR Holding BV may, whether requested or not by one (or more) LLC CEO, take a decision in accordance with principles of reasonableness and fairness.
2. These regulations shall be evaluated and updated two years after the date of entry into force.
3. These regulations shall be cited as *The EUR Holding BV Regulations on Reporting Alleged Misconduct*, and have been laid down pursuant to a decision of the CEO of EUR Holding BV on 3 July 2016, the revised version entered into force on 1 November 2018.

Explanatory notes concerning parts of the regulations

For which situations are these regulations intended?

Raising allegations of misconduct within the provisions of these regulations should always be proportional. This means that not every reported (alleged) misconduct falls within the scope of these regulations. In principle, the presumption of wrongdoing as laid down in these regulations is based on reasonable grounds, with large enough social or organisational implications. In other words, a suspicion that particularly concerns an infringement of the law, such as an imminent or committed rule violation (internal or external), deceiving the auditor appointed for EUR Holding BV, a danger to public health, safety or the environment, or – the most common ground – a negligent act or omission of facts or deliberate withholding of information concerning these facts, which could harm the proper functioning of EUR Holding BV, its subsidiary companies, or Erasmus University Rotterdam. Facts surrounding misconduct allegations must strictly concern EUR Holding BV or its subsidiary companies.

The nature and severity of the misconduct or wrongdoing influence the manner in which it is reported. An employee is expected to first internally report a suspicion of misconduct, thus within the subsidiary (LLC), and if he deems it necessary, after consulting a Confidential Counsellor. Internal reporting is indeed an important tool for the organisation, encouraging responsibility and intervention. Therefore, the CEO and management should timely gain knowledge of any suspicions of misconduct to redress the situation and take appropriate corrective action. When the handling of an incident report to the LLC CEO or Chair of the Supervisory Board is either stalled, or regarded as

undesirable or impossible, then a formal complaint may be lodged with the Committee on Undesirable Behaviour and Misconduct (COOM).

Also, providing the opportunity to consult the Confidential Counsellor can help ensure that reporting is done correctly. The independent Confidential Counsellor, next to logging and forwarding the incident report to the Committee (COOM), can supervise the reporting process and offers important advice to the informant or whistleblower. In this way, the Confidential Counsellor can protect the informant from making procedural errors, assesses the severity of the (alleged) wrongdoing or misconduct with the informant and if necessary, refers him to other agencies. It should be noted that the Confidential Counsellor is not the reporting authority handling the reported case, does not pronounce a formal judgement on the case in the formal sense and may not impose any sanctions.

For the record: the possibility of external disclosure or external whistleblowing is reserved for the category of "serious immoral practices involving major public interests," and situations where the person concerned may not be heard internally. The external reporting of (alleged) misconduct is not a pursuit occurring accidentally or motivated by self-interest: the whistleblower intends to sound the alarm publicly to warn against a specific, acute or imminent misconduct. Disclosure by a whistleblower therefore is intentionally done in the public interest. External reporting is made proportionally to persons or bodies viewed as the most likely to effectively intervene. One of the criteria for direct external reporting of (alleged) misconduct, as referred to in Article 6, paragraph 4 is the "legal obligation to report." The law, more specifically Article 160 of the Dutch Code of Criminal Procedure and articles 92-100 of the Dutch Penal Code require every citizen to report to the police / Public Prosecutor's Office any misconduct that constitutes a felony and particularly crimes against state security, such as the planning of acts of terrorism.

To prevent a conjuncture with the *Erasmus University Rotterdam Regulations on Scientific Integrity*, an alleged violation of scientific integrity is expressly outside the concept of "misconduct" as defined in these regulations. For the same reason, undesirable behaviour, as referred to in the *EUR Holding BV Regulations on Reporting Undesirable Behaviour and Complaints Procedure* is not understood to mean "misconduct".

To whom must misconduct be reported?

The internal report is submitted to the COOM, which informs the CEO of the subsidiary company (LLC) within which the misconduct is alleged, who is after all responsible for the state of affairs within his organisational unit. If the misconduct involves the subsidiary CEO, the COOM must inform the Supervisory Board Chair of the LLC involved in the case. A presumption of wrongdoing may also concern the CEO of EUR Holding BV. In this case, the report must be submitted to the Chair of the Supervisory Board of EUR Holding BV.

Misconduct is externally reported to the authority that is most able to (help) eliminate the wrongdoing. On the other hand, the interests of the organisation deem to be taken into account and an external intervention should cause the least possible damage to the organisation. In this regard, external reporting must be done with the competent authorities and not with the media. If the misconduct is more serious, putting certain population groups at greater risk or despite repeated reporting remains ongoing, informing the media would be justified.

Legal protection of informants

Upon due observance of these regulations, persons who report misconduct, will be protected by law. This protection ensures that informants are not prejudiced in any way within LLCs as a result of reporting a suspicion of misconduct.

An anonymous report is deemed inadmissible under the provisions in Article 3, paragraph 6 of these regulations. One reason is that anonymity removes any possibility to speak with the informant and

ask further questions about the misconduct. Furthermore, there is no legal protection for a person reporting anonymously. Anonymous reports are therefore not accepted under these regulations. However, a provision is made for anonymous witnesses in Article 5 of these regulations..

Parties who deviate from these regulations on misconduct will have to demonstrate a strong and plausible reason for doing so. Also, parties that bypass these regulations and first publicly disclose misconduct can be held liable for damages to the organisation and persons employed therein and/or face legal sanctions.

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