

Cover note University Council

Document number: 23.0000245

Case number: b23.00245

Details		
Topic		2023 EUR Whistleblower Regulations
To be discussed before		April 24 2023
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Handled by (to be invited to the Task Force TF)		M.H. Carp-den Baas & R.P Vroegop
Date		18-4-2023

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Context / Reason
<p><u>Previous decision-making</u></p> <p>The current EUR regulations came into effect on 1 January 2021. These regulations were based on the Whistleblowers Authority Act, which entered into force on 14 April 2016. Dutch legislation has been adapted to align with the European Whistleblowers Directive. This has resulted in the Dutch Whistleblower Protection Act, which came into force on February 18, 2023.</p> <p><u>Context</u></p> <p>The 2021 EUR Whistleblower Regulations is therefore outdated. The rewritten 2023 EUR Whistleblower Regulations complies with Dutch Legislation and European regulation.</p> <p>Since we appear to be the first university to fully comply with the European Whistleblowers Directive and the Dutch Whistleblower Protection Act, Legal Protection has offered to share our knowledge and (after adoption) the rewritten regulations of the EUR with the other universities.</p>

Jurisdiction UC / Question to the UC
<p><u>Important content changes compared with the current regulations.</u></p> <p>1. <i>Broadening of the group of persons who can make a report.</i></p> <p>Under the current Regulations, a report can be made by a selected group including EUR employees, students, former trainees, former employees, former students and internal Board and participation in decision-making bodies, such as the University Council, EUROPA and Faculty Councils. The new EUR regulations expands this group by aligning with the definitions as given by the Act to include at least:</p> <ul style="list-style-type: none">- Persons who are financially reliant on the EUR based on employment in any form; or- Persons who do not have a relationship based on employment with the EUR but have an important role in reporting an alleged wrongdoing. This includes but is not limited to former employees, candidates in a precontractual stage, (un)paid interns or other

parties that are not economically reliant on the EUR such as volunteers, (legal) representatives or counsellors, employee representatives or members of the advisory committees of the EUR.

2. Clarification of the scope of handling reports and procedures under civil and criminal law.

Under the current Regulations, the scope (internal reporting in relation to external reporting) was not specified explicitly. The Regulations is aimed at internal reporting and in case a report is related to a private law body of the EUR, the report can be shared with this body after explicit written permission of the reporting party. Information regarding an alleged criminal offence can be shared directly by the Executive Board without requiring any prior agreement of the reporting party or other parties concerned, based on article 31 en 32 sub d UAVG. In case of a research of authorities regarding an alleged criminal offence, the research period of the Committee shall be suspended until this research is complete.

3. Establishment of a periodical evaluation of Regulations with Internal Audit & Corporate Control.

The process of evaluation has been expanded to include periodic attunement with Internal Audit & Corporate Control to reflect the requirements of the Whistleblowers Protection Act.

4. Additions and adjustments to definitions in EUR Regulations.

In the new Whistleblower Regulations, additions have been made to the definitions to align with the definitions used in the Whistleblowers Protection Act.

5. Protection of previously anonymous or non-anonymous reporting or publicising parties.

A report can be made anonymously under the current Regulations.

In the new Regulations the anonymous person who reports, is also protected after losing anonymity, under certain conditions. This is also the case for the non-anonymous person who makes information public.

6. Temporary expansion of the committee in case of a report that simultaneously regards the EUR and other organisations.

In the situation that a report regards the EUR as well as another organisation, the committee can be temporarily expanded by two members of the Whistleblowers Committee of that other organisation.

7. Forwarding a report regarding a violation to another administrative entity other than the administrative entity of the EUR.

A report regarding a violation that includes another administrative entity other than the EUR can be forwarded by the committee to the other administrative entity based on art. 2:3 of the General Administrative Law Act (Awb), after which the case will be closed. The reporting party will be informed of the forwarding of the report. If the report regards another non-administrative entity, written permission of the reporting party is required beforehand.

8. Additions to the procedure around informing parties concerned including the use of multifactor authentication in verifying the identity of the parties concerned.

In the new Regulations, parties concerned (not anonymous) will be informed when a report has been made. Additionally, phone numbers will be required of parties concerned to provide multifactor authentication. Written responses to the report can be sent to the committee by parties concerned and will be shared with the other party.

If the report was made via phone or audio-recording system, the reporting party has the option to check, correct and sign the report in writing. This is also the case when a written report is made by EUR based on a verbal report.

9. Specification of the research period.

The investigation period can be extended from three to six months. Under the old legislation, the maximum period was 1 year. The committee strives to advise the Executive Board within three months after the start of the research period but may extend this term to a period of six months.

10. Specification of the contents of the written advice by the committee.

The new Regulations include a (minimum) specification of the written advice by the committee. The advice includes an overview of the research phases, advice about the content and accuracy of the statements made in the report, any observed breaches, a conclusion of advised measures and a description of the effectiveness of those measures in relation to the observed breaches.

11. The option for the Executive board to share relevant information in the case of an external report.

In alignment with the intended purposes and goals of the Whistleblowers Protection Act, the Executive Board now has the authority to share relevant evidence or other documentation required to other authorities or judicial authorities.

Short Summary

The UC is given the opportunity to advice on the content of this Regulations.

Follow-up process

The 2023 EUR Whistleblower Regulations will be published on MyEUR and the external EUR website and will be shared with the Confidential Counsellors, the Ombudsperson, HR and the members of the Whistleblower Committee.

Specifics

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Documents to be attached

Appendix 1: Reglement Melding Vermoeden van Misstanden EUR 2023
Appendix 2: Regulations on Reporting Suspicions of Misconduct EUR 2023
Appendix 3: Reglement Melding Vermoeden van Misstanden EUR 2021