

Regulations Ombudsperson, 2018

Contents

Preamble	3
Section I - Definitions	3
Article 1.1 - Definitions	3
Section II – The ombudsperson.....	4
Article 2.1	4
Section III – The right to complain.....	5
Article 3.1	5
Section IV – The complaint.....	5
Article 4.1	5
Section V – Conditions for handling complaints.....	6
Article 5.1	6
Section VI – Investigation of complaint.....	7
Article 6.1	7
Article 6.2	7
Article 6.3	7
Article 6.4	7
Article 6.5	7
Article 6.6	7
Article 6.7	8
Section VII – The findings.....	8
Article 7.1	8
Article 7.2	8
Article 7.3	8
Article 7.4	8
Article 7.5	8
Article 7.6	8
Section VIII – The annual report	9
Article 8	9

Section IX – Confidentiality	9
Article 9	9
Section X – Term for saving	9
Article 10	9
Section XI – Protection	9
Article 11	9
Article 12	9
Section XII - Short title, entry into force	10
Article 13	10

Preamble

The ombudsperson is an independent officer appointed by the Executive Board, who, in response to complaints from employees or students, or at his own initiative investigates whether an organisational unit, employee or student of the educational institute conducts or has conducted themselves correctly in a particular situation.

The De ombudsperson handles complaints submitted to him by employees¹ or students. The ombudsperson can advise, refer, mediate and investigate and issue judgements. In the first meeting with the complainant(s), the ombudsperson will consider whether a different route is possible. This may be mediation or advice; advisory reports may be addressed to complainants or have a more general character. A question put to the ombudsperson leads to an advisory report and information process. A complaint submitted to the ombudsperson leads to mediation and, where appropriate, to an investigation of the complaint, reporting and advice in accordance with the Regulations Ombudsperson.

The ombudsperson plays a role in drawing attention to potential structural problems, bottlenecks and malpractices within the educational institute, on the basis of complaints submitted to him. The ombudsperson actively makes connections and organises collaboration with other actors in the network with regard to a safe working and study climate. Where appropriate, the ombudsperson can make suggestions to the competent authority in order to halt the continuation of undesirable situations, by means of recommendations.

Section I - Definitions

Article 1.1 - Definitions

1. For the purposes of these Regulations, the terms below are defined as follows:
 - a. Administrative body: the Supervisory Board, the Executive Board, an Academy Director or a Director of a service.
 - b. Body: part of the organisation of the educational institute that is mandated with a specific function pursuant to a regulation or other decision, such as an objections committee.
 - c. Employee: a person employed at the EUR under any title whatsoever, or who performs work at the EUR.
 - d. Students: all persons who study at the educational institute and make use of its facilities as such, including PhD students without an employment contract with the educational institute, and external parties.
 - e. Complaint: a complaint concerning the conduct of the employer and/or of employees working for the employer. 'Conduct' refers in this regard to both actions and omissions.
 - f. Stakeholders: the complainant and the parties against whom the complaint is addressed.

¹ References to 'he' or 'him' may also be read as 'she' or 'her'.

g. Ombudsperson: the person who, having been appointed for that purpose by the employer, handles complaints from employees or students concerning actions (or omissions) of the employer or other employees, acting as an independent officer.

Section II – The ombudsperson

Article 2.1

Within the EUR there is an ombudsperson for employees and students, referred to hereinafter as 'the ombudsperson' (m/f).

Article 2.2

The ombudsperson enters into an alliance with the Executive Board for a period of two years. This alliance may be renewed.

Article 2.3

The ombudsperson is independent and impartial in the performance of his task. The position of the ombudsperson is not compatible with other positions within the EUR or with other commitments with the EUR.

Article 2.4

The ombudsperson handles complaints of employees and students concerning the conduct of (administrative) bodies and other employees and may perform investigations in response to these. 'Conduct' refers in this regard to both actions and omissions. On the basis of an investigation, the ombudsperson may make recommendations to the stakeholders. The decisions of the ombudsperson are not binding.

Article 2.5

The ombudsperson reports on his work annually to the Executive Board, the Erasmus University Rotterdam Human Resources Consultative Platform (EUROPA) staff representatives and the University Council.

Article 2.6

The Executive Board may terminate the alliance with the ombudsperson if he seriously abuses the trust placed in him by means of actions or omissions. A decision in this regard is submitted to EUROPA for advice. As soon as it is to be expected that the ombudsperson will not be able to perform his mandate for a longer term, the Executive Board will enter into an alliance with a replacement.

Article 2.7

The Executive Board will provide the ombudsperson with the means necessary to perform his mandate well.

Article 2.8

Complaints concerning the ombudsperson can be submitted to the Executive Board. If these complaints cannot be solved satisfactorily, they may be reported to the chairman of the Supervisory Board. The ombudsperson is indemnified against costs of legal support in the event of a dispute or complaint against him.

Section III – The right to complain**Article 3.1**

Every employee and student of the educational institute may submit a complaint to the ombudsperson regarding the way in which an administrative or other body or employee have conducted themselves in respect of the complainant in a particular situation.

Section IV – The complaint**Article 4.1**

Complaints must be submitted in writing and must at least contain:

- a. The name and address of the complainant;
- b. The date;
- c. A description of the conduct to which the complaint relates and the;
- d. notice of which administrative or other body or which employee has;
- e. conducted themselves and, if necessary, where and against whom this conduct took place;
- f. The reason why the complainant is complaining about the conduct;
- g. The signature of the complainant. This requirement lapses if the complaint is received by e-mail.

Article 4.2

If another complaint, objection or appeal proceedings are filed in relation to the conduct, or if a decision on these has already been issued, the complainant is required to notify the ombudsperson of this without delay. If the conduct is the subject of a dispute that is brought before the courts, or if a court decision is handed down, the complainant must also report this. In these cases, the ombudsperson will declare the complaint inadmissible.

Article 4.3

If the complaint is formulated in a foreign language, the complainant must provide for a translation into Dutch if this is necessary for proper handling of the complaint.

Article 4.4

Receipt of the complaint will be confirmed in writing within two weeks.

Article 4.5

If the complaint fails to comply with the conditions referred to in this Article, the complainant will be given an opportunity to comply with its obligations after all within two weeks.

Article 4.6

The complaint may be withdrawn at any time, in which case these Regulations will not apply any further and the ombudsperson will notify the stakeholders of this.

Article 4.7

The ombudsperson may terminate the handling of the complaint if the complaint is resolved in the interim.

Section V – Conditions for handling complaints

Article 5.1

A complaint will be processed if:

- a. The complaint is filed by a person who complies with the definition of the term employee/student, as laid down in Article 1(b) of these Regulations;
- b. The complaint is filed within a reasonable term following the occurrence of the conduct to which the complaint relates;
- c. The complaint complies with the conditions laid down in Article 4.1 and 4.3;
- d. The ombudsperson has not previously issued a decision on this complaint;
- e. A complaint concerning the conduct cannot be submitted to the relevant committee pursuant to the regulations of the educational institute on prevention and control of undesirable conduct and improper treatment;
- f. No complaints, objections or appeal proceedings have been or could be filed with regard to the conduct, pursuant to the law or a regulation within the university, other than the aforementioned complaint, and the complainant has not made use of any such measures or no decision has yet been handed down in any of the aforementioned proceedings;
- g. The conduct is not the subject of a dispute that has been brought before the courts or on which a court decision has been handed down.
- h. The matter does not form part of the general policy of the educational institute or the administrative body.

Article 5.2

The ombudsperson may set aside the handling of a complaint if:

- a. The complaint has been settled out of court;
- b. The complaint is apparently unfounded;
- c. The interests of the complainant or the seriousness of the conduct are apparently insufficient, as determined at the discretion of the ombudsperson.

Article 5.3

If the ombudsperson decides pursuant to the provisions of Article 5.1 and 5.2 not to handle the complaint, he/she will notify the complainant of this in writing at the earliest opportunity, stating the reasons, and also the relevant administrative or other body or the employee/student concerned, if they have already been notified of the complaint.

Article 5.4

If the decision not to handle the complaint (Article 5.3) is based on the fact that other procedures are open to the complainant, the complainant will be notified of this.

Article 5.5

The decision of the ombudsperson referred to in Article 5.3 is not open to any objection or appeal.

Section VI – Investigation of complaint

Article 6.1

If mediation is not deemed to be worthwhile, or an attempt at this has not led to an out-of-court settlement of the complaint, the ombudsperson will grant the administrative or other body or the employee/student to whose conduct the complaint relates and the complainant an opportunity to explain their positions, in writing or verbally, at the discretion of the ombudsperson, in each other's presence or otherwise.

Article 6.2

The ombudsperson may, if he considers this necessary for the assessment of the complaint, also grant other parties an opportunity to take cognisance of the complaint and to submit verbal or written statements in that regard.

Article 6.3

The ombudsperson is authorised to request information of the administrative or other bodies and employees/students or to request and view documents concerning a matter to which a complaint relates.

Article 6.4

Administrative bodies and employees/students are required to provide the requested statements within a reasonable term set by the ombudsperson and to provide the information and/or documents referred to above.

Article 6.5

Without prejudice to the provisions of paragraph 8, the ombudsperson will notify the parties of the information that he gathers.

Article 6.6

Administrative bodies and employees/students may state that the information and/or documents that they consider should remain confidential for very serious reasons will only be

provided subject to the condition that their confidential nature will be protected by the ombudsperson.

Article 6.7

Before concluding the investigation, the ombudsperson will report his provisional findings to the complainant and to the administrative or other body or to the employee/student in writing, and will grant them an opportunity to respond in writing within a reasonable term that he sets.

Section VII – The findings

Article 7.1

The ombudsperson assesses whether the administrative or other body or the employee/student have conducted themselves correctly in the matter that he has investigated.

Article 7.2

The report of the ombudsperson in which he states his decision shall contain the findings on which this decision is based and will be sent to the complainant and to the Executive Board.

Article 7.3

The ombudsperson may make such recommendations in the report as he regards as serviceable. These recommendations may relate to the specific conduct concerning which the complaint was submitted or to more general aspects that came to the fore in the course of the investigation.

Article 7.4

The party authorised to follow up the recommendations referred to in paragraph 3 will notify the ombudsperson within one month of receipt of the report, stating its reasons, of whether and, if so, how the recommendations will be or have been followed. The recommendations need not be implemented if they conflict with the general policy. The ombudsperson will notify the complainant and the Executive Board of this without delay.

Article 7.5

If the administrative or other body or the employee/student consider not following the recommendation(s), for serious reasons, they will notify the ombudsperson of this, stating the reasons. The ombudsperson will send a copy of this statement to the complainant and to the Executive Board.

Article 7.6

The findings (assessments and recommendations) of the ombudsperson are not open to any objection or appeal. Unless a public educational institute is involved; the complainant may then appeal against the assessment of the ombudsperson to the National Ombudsperson.

Section VIII – The annual report

Article 8

The ombudsperson will reports on his work annually to the Executive Board, EUROPA and the University Council. The report will in any event contain the number of cases handled and an anonymised summary of these. Any description of the cases handled will be such that the privacy of the employees or students concerned is fully protected. The Executive Board will send a copy of the report to the University Council and the faculty councils.

Section IX – Confidentiality

Article 9

The ombudsperson is required to protect the confidentiality of² the information of which he becomes aware in the performance of this task, in as far as this follows from the nature of the case. This obligation also applies for all persons who work for him and for persons who are or were involved in a specific case. The ombudsperson may be relieved of his confidentiality obligation if the safety of employees, students and the ombudsperson is threatened.

Section X – Term for saving

Article 10

Settlement agreements arising from mediation, reports on findings, and decisions taken in response to a report on findings will be deleted from the personnel file after three years. The data held by the ombudsperson will also be deleted from the ombudsperson's archives after a term of three years.

Section XI – Protection

Article 11

The position of stakeholders who have contacted the ombudsperson or have submitted a complaint in good faith, in observance of the provisions of the Regulations Ombudsperson, will in no way be harmed in as far as such harm is solely the result of contacting or submitting a complaint to the ombudsperson. Employees who assist with an investigation, for example by providing information, will also be protected and may not suffer any adverse consequences of their actions.

Article 12

The ombudsperson is indemnified against legal costs in the event of a complaint concerning the ombudsperson or a conflict in which the ombudsperson is involved on the basis of his position.

² The District Court may require the ombudsperson to provide court documents for the handling of a case.

Section XII - Short title, entry into force

Article 13

These regulations may be referred to as 'Regulations ombudsperson employees/students Erasmus University Rotterdam' and entered into force on the appointment of the ombudsperson (1 June 2019).

The action plan, including appendices, was approved at the meeting of the Executive Board on 24 August 2018, for which consent was granted by the EUROPA on 24 August 2018 and the University Council was informed. The regulations were then formally adopted at the meeting of the Executive Board on 23 June 2020.