

*The Direction of the Ecole polytechnique fédérale de Lausanne,*

based on Articles 22a and 34c para 1a of the [loi fédérale sur le personnel de la Confédération \(LPers – RS 172.220.1\)](#),

based on Article 4 para 2 of the [Directives du Conseil des EPF sur le traitement des signalements faits par des personnes relevant du Domaine des EPF et concernant des comportements juridiquement ou éthiquement incorrects](#),

*hereby adopts the following:*

## Section 1 General Provisions

### Article 1 Objectives

<sup>1</sup> The present Directive aims to implement a whistleblowing procedure and mechanism for the reporting of serious misconduct within or relating to EPFL.

<sup>2</sup> Reporting misconduct is in the interests of EPFL and in keeping with good corporate governance practices.

<sup>3</sup> The objective of the present Directive is also to protect the whistleblower (the person who has reported the misconduct) and to avoid the creation of an incriminatory atmosphere at EPFL that would be detrimental to the working environment.

<sup>4</sup> The procedure in place protects the personality and rights of the parties concerned, and provides a clear and detailed analysis and answers to the EPFL Direction or indeed the ETH Board.

### Article 2 Aim

The aim of the present Directive is to identify the authorities which may be contacted for the reporting of alleged legally or ethically incorrect behaviour, and to regulate the EPFL internal procedure regarding the handling of reports.

### Article 3 Definitions and the ‘Compliance Guide’

<sup>1</sup> EPFL has issued a “Compliance Guide”<sup>1</sup> providing information for EPFL staff and students regarding the current regulations, usages and good practices to be observed within EPFL, which must be respected in order to guarantee EPFL values and the achievement of EPFL missions.

<sup>2</sup> Everyone is entitled to report any alleged legally or ethically incorrect behaviour that he/she has become aware of within the context of his/her activity at EPFL. If the behaviour in question equates to a crime or prosecutable offence, all EPFL staff have a duty to report it in accordance with Article 22a of the *Loi sur le personnel de la Confédération (LPers)*. Legal provisions establishing a right to refuse to give evidence apply<sup>2</sup>.

### Article 4 Competent bodies

The person submitting the report may contact one of the following bodies:

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<sup>1</sup> <https://direction.epfl.ch/complianceguide/en>

<sup>2</sup> See provisions relating to administrative and disciplinary investigations in the [Ordonnance sur l'organisation du gouvernement et de l'administration \(art. 27a à 27j - RS 172.010.1\)](#) and the [Ordonnance sur le personnel du domaine des EPF \(art. 58 et art 58a - RS 172.220.113\)](#)

If they are an employee:

- Immediate superior;
- Head of Human Resources;
- EPFL Ombudsperson;
- ETH Board Ombuds Office (<https://www.ethrat.ch/en/eth-board/appeals-reports/ombuds-office>);
- The Swiss Federal Audit Office's Whistleblowing Office (<https://www.bkms-system.ch/bkwebanon/report/clientInfo?cin=5efk11>).

If they are a PhD student:

- Thesis supervisor / mentor;
- Programme director;
- Deputy to the Vice-President for Education for the Doctoral school;
- Head of Human Resources;
- EPFL Ombudsperson;
- ETH Board Ombuds Office (<https://www.ethrat.ch/en/eth-board/appeals-reports/ombuds-office>);
- The Swiss Federal Audit Office's Whistleblowing Office (<https://www.bkms-system.ch/bkwebanon/report/clientInfo?cin=5efk11>).

If they are a student:

- Student Affairs service;
- EPFL Ombudsperson;
- The Swiss Federal Audit Office's Whistleblowing Office (<https://www.bkms-system.ch/bkwebanon/report/clientInfo?cin=5efk11>).

This being said, under Article 22a of the *Loi sur le personnel de la Confédération (LPers)*, employees are bound to report to the criminal prosecution authorities, their superiors or the Swiss Federal Audit Office ([www.whistleblowing.admin.ch](http://www.whistleblowing.admin.ch)) all crimes and misdemeanours pursued ex officio of which they were aware or which were reported to them in the course of their work.

## **Section 2 Procedure for handling reports**

### **Article 5 Scope of Application**

The present regulations are applicable to the EPFL Ombudsperson. The procedures practiced by external bodies<sup>3</sup> can be found on their respective websites.

### **Article 6 Form of report**

The whistleblower is encouraged to submit their report in writing (via the form created for this purpose, for example – see Annexe 1 and Annexe 2 of the present Directive), so that reporting

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<sup>3</sup> Swiss Federal Audit Office's Whistleblowing Office: <http://www.whistleblowing.admin.ch>; ETH Board Ombuds Office: <https://www.ethrat.ch/fr/conseil-des-epf/recours-et-annonces/service-ombudsman>

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may be conducted in the most accurate and precise manner possible. As a general rule, the report should be signed with the name of its author.

## Article 7 Confidentiality

The confidentiality of the actions and information supplied by the whistleblower will be maintained as far as possible. However, confidentiality may be waived in cases where the divulgence of information is obligatory in accordance with legal provisions or regulations or legal proceedings, or indeed if it is in the greater interest of EPFL or the public. The identity of the whistleblower will also be known to those in charge of the procedure.

## Article 8 Guarantee

Provided that the whistleblower's report is made in good faith, EPFL will make every effort to ensure that he/she is not subject to any professional prejudice as a result of his/her actions and that a report may be made without fear of intimidation, retaliation or discrimination. It is thus prohibited to terminate professional relations with a staff member for this reason.

## Article 9 Admissibility

Upon receiving a report, the relevant authority will examine its admissibility. The anonymity of the whistleblower does not in itself constitute a reason for inadmissibility. If the report is judged inadmissible, the relevant authority will inform the whistleblower.

## Article 10 Transferral of information to the President of EPFL

If the report is judged admissible, the authority to which the report has been addressed will draft a report intended for the President of EPFL, including the following elements:

- Brief summary of the facts;
- If necessary, suggestions for additional inquiries, either via audit or via administrative<sup>4</sup> or disciplinary investigations;
- In the case of suggestions for additional inquiries, suggestions of bodies to whom these missions could be entrusted, either internally (General Counsel, hereafter GeC), or externally (EPFL Ombudsperson, third party agent, ETH Board Internal Audit, CFD);
- Suggestion of the measures to implement in the case of the aforementioned inquiries (for example, lifting of professional confidentiality for staff members);
- If the situation so requires, suggestions regarding the immediate referral to third party authorities (notably criminal investigative authorities).

In all situations, inquiries ordered by the President of EPFL will be supervised by the GeC.

Administrative and disciplinary investigations are requested in accordance with the provisions in the *Ordonnance sur l'organisation du gouvernement et de l'administration* (Art. 27a to 27j - RS 172.010.1, the *Ordonnance sur le personnel du domaine des EPF* (Art. 58 and Art 58a - RS 172.220.113), and Articles 11 to 14 of the present Directive. Investigations regarding allegations of scientific misconduct are requested in accordance with the 'Internal procedure in cases of suspected scientific misconduct' (LEX 3.3.3).

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<sup>4</sup> See Art. 27a to 27j of the *Ordonnance sur l'organisation du gouvernement et de l'administration (OLOGA) RS 172.010.1*

## Article 11 Right to be heard

During the inquiry process, the parties may receive assistance from and be represented by a person of their choice. Their right to be heard is guaranteed.

## Article 12 Obligation to give evidence

Any person who may be in possession of information valuable to the inquiry is obliged to give evidence; he/she must not be subject to any prejudice as a result of his/her testimony. If necessary, professional confidentiality will be lifted for this person, in accordance with Article 10 above.

## Article 13 Minute-taking

Minutes will be taken of proceedings. Hearings will also be recorded in minutes and signed by the person heard.

## Article 14 End of inquiry report and recommendations

A report must be issued at the end of the inquiry containing a presentation of all the information gathered during the investigation, as well as a related assessment. Before drafting this end of inquiry report, the body responsible for the additional investigations will allow parties to consult the dossier containing the evidence and witness statements gathered and set a deadline for the accused person to state his/her position, and if necessary present his/her own evidence. Once the inquiry report has been issued, the body responsible will transfer it to the President of EPFL with notice of the measures to be taken, if necessary.

## Article 15 Decisions and sanctions

<sup>1</sup> The President of EPFL takes all the measures or decisions justified by the facts established.

<sup>2</sup> The sanctions applicable are stipulated in particular in the [l'Ordonnance sur le personnel du domaine des Ecoles polytechniques fédérales](#) or the [Disciplinary Rules and Regulations concerning Students of the EPFL](#). These range from a warning to termination of the employment contract for staff and, for students, from a reprimand to exmatriculation.

<sup>3</sup> Review procedures are defined by Article 37 of the [Loi fédérale du 4 octobre 1991 sur les écoles polytechniques fédérales](#).

## Article 16 Supplementary law applicable

The present Directive constitutes a supplement to existing federal legislation on federal administrative procedures ([Loi fédérale du 20 décembre 1968 sur la procédure administrative - PA](#)).

## Article 17 Costs

Costs relating to the issuance of a report for the President of EPFL and possible additional inquiries are to be covered by the unit concerned by the reporting (Vice Presidency, School, College, Campus, Centre or Project).

## ***Section 3 Entry into force***

### **Article 18 Entry into force**

The present Directive came into force on 14<sup>th</sup> August 2017 and replaces the earlier versions dated 12<sup>th</sup> April 2017, 7<sup>th</sup> July 2007, 1<sup>st</sup> September 2008 and 10<sup>th</sup> March 2014. Status as at 18<sup>th</sup> August 2019, version 1.1.

On behalf of the EPFL Direction:

President:  
Martin Vetterli

General Counsel, a.i.:  
Françoise Chardonnens

ANNEXE 1

REPORTING FORM

## **I. Your details**

First name(s):

Surname:

Address:

Telephone number:

Email:

## **II. Who?**

Suspect:

Victim (if applicable):

## **III. What?**

Type of incident observed:

## **IV. Where?**

Place where the observed incident took place:

## **V. When?**

Date:

Time (if applicable):

## **VI. Further information**

Do you have any further information to add? Are you in possession of elements supporting your suspicions (documents, photographs, etc.)?