

# Regulations concerning the payment of court costs and legal fees for Employees

LEX 4.1.7

Of 28<sup>th</sup> January 2020

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

based on Article 48 of the *Ordonnance sur le personnel du domaine des EPF* (OPers-EPF) of 15<sup>th</sup> March 2001;

based on Article 22 of the *Ordonnance sur le corps professoral des écoles polytechniques fédérales* (*Ordonnance sur le corps professoral des EPF*) of 18<sup>th</sup> September 2003;

based on Article 4 paragraph 2, letter g) of the *loi sur le personnel de la Confédération* (LPers);

*hereby adopts the following:*

## **Article 1      Scope of application**

The present regulations are applicable to all professors and to all staff members of EPFL (hereinafter: “Employee[s]”) involved in civil, administrative or criminal proceedings due to their professional activity. This document governs the conditions under which EPFL shall bear part or all of the court costs and legal fees as well as the procedure to be followed in order to obtain this financial assistance.

## **Article 2      Conditions for financial assistance**

<sup>1</sup> EPFL bears part or all of the court costs and legal fees, namely the costs of legal representation and legal expenses, where the following conditions are fulfilled:

- a) if, owing to his/her professional activity, the Employee becomes involved in civil, administrative or criminal proceedings, or rightly initiates such proceedings; and
- b) if EPFL is an interested party in the aforementioned proceedings; and
- c) the Employee has not acted deliberately or negligently; and
- d) proceedings have not been initiated by the Employee against EPFL or vice versa, subject to paragraph 2 below and the decision of the legal authorities regarding the allocation of fees and expenses paid to the Employee.

<sup>2</sup> Regarding the costs incurred by an Employee for legal representation or assistance within the context of an administrative or disciplinary inquiry initiated by EPFL and in which the Employee is the defendant, EPFL may allocate a contribution for his/her legal representation, provided that:

- a) legal representation or legal assistance from a lawyer is justified given the circumstances; and
- b) that the inquiry report recognises that the Employee has not committed any unlawful or unethical act.

## **Article 3      Request for financial assistance**

<sup>1</sup> An Employee involved in legal proceedings who meets the conditions of Article 2 may request financial assistance for his/her court fees and legal expenses in the sense of the present regulations. This request shall be addressed in writing to the Director of Legal Affairs as early as

possible and at the latest 30 days from reception by the Employee of the decision or ruling from the initial authority.

<sup>2</sup> The request for financial assistance shall include at least the following information:

- a) name and address of the parties involved in the proceedings;
- b) the reviewing authority contacted;
- c) a description of the situation (established facts and context of the dispute, reason for the request, namely with regard to the conditions laid out in Article 2).

#### **Article 4 Examination of request and decision**

<sup>1</sup> The Director of Legal Affairs evaluates the merits of the request. If the request is justified, the Director of Legal Affairs proceeds to an estimate of the predicted costs in the first instance and:

- if this estimate does not exceed CHF 10,000.00, she sets the amount of the financial support;
- if this estimate exceeds CHF 10,000.00, she transfers the file to the President, who decides the amount to be awarded.

Nevertheless, where there is a risk to the reputation of EPFL and regardless of the estimated amount of the costs, the Director of Legal Affairs shall transmit the request to the President, who will decide the action to be taken regarding the request.

<sup>2</sup> Where the request is found to be justified, the Director of Legal Affairs communicates this decision to the Employee in writing, setting out the maximum amount that EPFL will allocate for court costs and legal fees. Regarding the cost of legal representation, a maximum amount is set at CHF 350.00 per hour (excluding VAT) for the invoice and 3% of the total amount of the disbursement.

<sup>3</sup> Where the request is not found to be justified, the Director of Legal Affairs communicates this decision to the Employee in writing, along with an explanation.

<sup>4</sup> This decision to provide financial assistance concerns only the costs incurred in the first instance. If proceedings should be brought before one or more additional courts, where necessary, the Employee shall address a new request for financial assistance for each instance, subject to the same conditions as the first request.

#### **Article 5 Monitoring and advance payment of costs**

<sup>1</sup> Employees having received a positive decision regarding their request for financial assistance shall transfer a detailed report of expenses incurred to Legal Affairs every four months.

<sup>2</sup> In exceptional cases, namely if the employee has demonstrated that he/she is in difficult financial circumstances, EPFL may issue the advance payment of expenses, limited to the maximum amount set out in the decision to grant financial assistance. For this purpose, the Employee addresses a written request to Legal Affairs and the decision is taken by the relevant authority as indicated in Article 4, paragraph 1.

<sup>3</sup> If, during the course of proceedings, it should be found that the maximum amount set out in the decision in accordance with Article 4 is insufficient to cover the expenses, the Employee may submit an increase request for the relevant sum, under the same conditions as the initial request (see Articles 2, 3 and 4). A request of this kind shall be made as soon as the Employee becomes aware of the insufficiency of the original amount.

**Article 6 Decision of final amount allocated**

Within the 30 days following the ruling or decision made by the relevant authority, the Employee shall submit all supporting documents (namely copies of the ruling or the decision and the invoices for legal representation) to Legal Affairs. Based on this information, Legal Affairs will draw up a definitive statement of expenses, taking into account the maximum amount set out in the decision to provide financial assistance, as well as caps and other maximum amount levels set out by the present regulations and any advance payments made to the Employee. Furthermore, the Director of Legal Affairs may refuse to bear all or part of the cost of legal representation where this does not appear to have been necessary or well justified.

**Article 7 Payment and amount allocated**

<sup>1</sup> Based on the statement of expenses in accordance with Article 6, Legal Affairs will pay the amount allocated (or the remaining sum) or, respectively, request reimbursement from the Employee should the amount paid in advance exceed the final recognised amount.

<sup>2</sup> If, at the end of proceedings, it should be found that the court proceedings were caused by an act of intentional or gross negligence by the Employee, EPFL reserves the right, via the Director of Legal Affairs, to remove or reduce any amount allocated under the terms of the present regulations and to demand the reimbursement of any sum already paid out.

**Article 8 Entry into force**

The present regulations enter into force on 28<sup>th</sup> January 2020.

On behalf of the EPFL Direction:

President:  
Martin Vetterli

Director of Legal Affairs:  
Françoise Chardonnens