

Masaryk University Directive No. 1/2023

PROTECTION OF RIGHTS

(in the version effective from 1 April 2023)

Respect for human rights and public interest rights forms the foundation of the democratic rule of law. Masaryk University embraces the protection of rights in its Code of Ethics, measures for the implementation of HR Award and other documents. These rights must be protected effectively, impartially and efficiently and support for as well as protection of whistleblowers and victims of infringement of these rights must be ensured at Masaryk University. Therefore, I issue this Directive in accordance with Section 10(1) of Act No. 111/1998 Coll., on Higher Education Institutions and on the Modification and Amendment of Other Acts (the Higher Education Act):

Section 1

Introductory Provisions

- (1) This Directive regulates the procedure of registering and processing submissions regarding the protection of rights at Masaryk University (hereinafter referred to as "MU").
- (2) A submission for the protection of rights under this Directive (hereinafter referred to as a "Submission") is a notification, complaint or petition aimed at the protection of rights related to the competence of MU, including but not limited to the protection:
 - a) of rights of employees and job applicants,
 - b) of rights of students, applicants for study and graduates,
 - c) of rights of MU,
 - d) against unequal treatment or discrimination,
 - e) against sexual harassment,
 - f) of academic integrity,
 - g) of Union law under Section 2(b).
- (3) A Submission is not an expression of opinion, request or notification that is not aimed at the protection of rights or a proposal for improvement of operations of MU or its constituent parts.
- (4) This Directive shall not apply to the processing of:
 - a) requests for information or complaints submitted under Act No. 106/1999 Coll., on Free Access to Information, as later amended,
 - b) submissions aimed at the protection of personal data, and
 - c) complaints concerning elections to autonomous academic bodies and individual faculties of MU.

Section 2 Definitions

For the purposes of this Directive:

- a) notification means a Submission through which the reporting person addresses MU regarding infringement of their own or other person's rights,
- b) notification of infringement of Union law means a Submission informing of a possible infringement that has the characteristics of a crime or violates a law or regulation of the European Union governing areas under the law and Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law (hereinafter referred to as "Directive (EU) 2019/1937"),
- c) complaint means a Submission through which the complainant seeks protection of their rights, and which clearly indicates who makes the Submission, which matter it concerns and what is proposed. Further requisites of a complaint are provided in Section 8. A Submission against inappropriate conduct of officials or against the procedure of an administrative body under Section 175 of Act No. 500/2004 Coll., Administrative Procedure Code, as later amended (hereinafter referred to as the "Administrative Procedure Code") is also considered a complaint,
- d) petition means a Submission in the matters of public or another common interest which is related to the competence of MU and directed at MU, and which meets the requisites stipulated by Act No. 85/1990 Coll., on the Right to Petition, as later amended (hereinafter referred to as the "Act on the Right to Petition"),
- e) anonymous submission means a Submission whose author is unknown, mainly because it has not been signed or because the stated identification details are fictitious or illegible,
- f) person in charge means the director of the MU constituent part that is competent to decide in the subject matter of the Submission. In case the Submission is directed against the person or scope of work of the director of an MU constituent part, the person in charge shall be the Rector. In case the Submission is directed against the Rector, the person in charge shall be the Chair of the MU Academic Senate.

Section 3 Submission

- (1) A Submission may be filed in person or in writing. If in writing, it may be filed through the MU databox, MU digital mailroom, MU central mailroom or by mail at the address of MU. If in person, a Submission may be made with the university ombuds, a person in charge or a person authorized by either of them.
- (2) An employee or a student who was delivered a written Submission is obliged to refer it to the ombuds or a person in charge.
- (3) A submission not concerning MU shall be referred by the ombuds or a person in charge to the relevant body or person.
- (4) An anonymous Submission shall only be processed in case its content evidences a serious infringement of rights related to the competence of MU. In all other cases, an anonymous Submission shall be suspended.
- (5) A Submission clearly abusing the procedure under this Directive shall be suspended.
- (6) If a Submission that lacks the requisites under this Directive has not been supplemented upon a call of the recipient or on their behalf, it shall be suspended.
- (7) If a Submission has the requisites in accordance with Section 2(c), procedure under Section 8 shall apply. If a Submission concerns infringement of Union law, procedure under Section 6 shall apply. If a Submission concerns sexual harassment, procedure under Section 7 shall apply.

- (8) If the content of the Submission does not clearly suggest whether it is a notification, complaint or petition, the ombuds shall decide on the way it is processed.

Section 4

Submission Records

- (1) Submissions aimed at the protection of rights and other documents related thereto are registered in the Submission Records (hereinafter referred to as the "Submission Records").
- (2) The Submission Records is an MU IT constituent under [MU Directive No. 9/2017 – Administration of Information Technology](#), administered by the ombuds.
- (3) The ombuds, a person in charge and persons who are granted access to the Submission Records by the ombuds or a person in charge are obliged to maintain confidentiality of all facts learnt from these records.

Section 5

Notification

- (1) Notifications are received and processed by the ombuds. Where the content of the Submission and nature of the rights affected make it possible, the ombuds processes the notification amicably using mediation.
- (2) Depending on the content of the notification and nature of the rights affected, the ombuds shall ensure the protection of rights of the reporting person and the person against whom the notification is directed. Depending on the content of the notification and nature of the rights affected, the ombuds may propose to the person in charge further measures to protect the reporting person.
- (3) In case the content of the notification and nature of the rights affected require, or if there are other reasons worthy of special consideration, the ombuds shall propose to the Rector an establishment of an expert committee to investigate the notification. The proposal shall include the composition and procedure of the committee. If the Rector decides to establish such a committee, the ombuds shall take into account its conclusions in the opinion under subsection 4.
- (4) The ombuds shall process the notification by issuing an opinion containing a finding on the rights affected. The opinion may include:
 - a) confidentiality obligation of persons mentioned in subsection 5, regarding the facts stated in the opinion,
 - b) recommendation to a person in charge regarding further steps, including submitting the case to another body of MU,
 - c) obligating the person in charge to inform the ombuds of the measures adopted.
- (5) The opinion under subsection 4 shall not be issued by the ombuds in case the Submission can be resolved in person or in another appropriate way. In such case, the ombuds shall make a record of the resolution of the notification, which shall be registered in accordance with Section 4.
- (6) The ombuds shall deliver the opinion under subsection 4 or record under subsection 5 to the reporting person and the person in charge. Other persons shall be delivered the opinion or the record by the ombuds if the nature of the case requires so.

Section 6

Notification of Infringement of Union Law

- (1) The person competent to receive and process a notification of infringement of Union law is the ombuds.
- (2) Notifications under subsection 1 are made solely through the internal reporting system administered by the ombuds.

- (3) Unless the procedure for processing a notification under subsection 1 is regulated by Directive (EU) 2019/1937 or by the law, the provisions of Section 5 regarding the processing of notifications shall apply mutatis mutandis.

Section 7

Notification of Sexual Harassment

- (1) Notifications of sexual harassment are received by a person authorized by the ombuds or by a person in charge, and are processed by the ombuds.
- (2) The ombuds processes a notification under subsection 1 amicably using mediation only if the person whose rights are reasonably suspected to have been affected by the reported conduct (hereinafter referred to as the "victim of sexual harassment") consents thereto.
- (3) In case the ombuds fails to obtain the cooperation of the victim of sexual harassment for the purpose of processing the notification under subsection 1, or if the victim of sexual harassment refuses to participate in the processing of the notification under subsection 1, the ombuds shall suspend the notification. This shall not apply in case the content of the notification proves a serious infringement of rights related to the competence of MU.
- (4) In other aspects, the provisions of Section 5 regarding the processing of notifications shall apply mutatis mutandis to the processing of a notification under subsection 1.

Section 8

Complaint

- (1) Complaints are received and processed by a person in charge.
- (2) The complainant shall state in the complaint:
 - a) if a natural person, their name and mailing address; the mailing address may also be an electronic address in the IS MU,
 - b) if a legal entity, the business name, registered office, name of the representative and their mailing address; the mailing address may also be an electronic address in the IS MU,
 - c) designation of an MU constituent part, MU body or person to whom the complaint is intended,
 - d) date and signature.
- (3) In case the complainant authorizes another person to lodge a complaint on their behalf or to act on their behalf, they shall attach the power of attorney to the complaint.
- (4) Depending on the content of the complaint and nature of the rights affected, the person in charge shall ensure the protection of rights of the complainant and, in an appropriate way, of the person against whom the complaint is directed.
- (5) In addition to cases mentioned in Section 3(5) and (6), the person in charge shall suspend the complaint if:
 - a) the complainant can pursue a due legal remedy regarding the complaint or
 - b) the repeated complaint of the same complainant in the matter that was resolved fails to provide new facts that would constitute a reason for new investigation or adoption of new measures.
- (6) The period for processing a complaint is 60 days from the date of its delivery. This period may be extended only if supporting information and/or documents necessary for the processing of the complaint cannot be obtained during the 60 days. The person in charge shall inform the complainant about the extension of the period within 60 days of the delivery of the complaint.

- (7) All issues of the complaint shall be investigated objectively, impartially and thoroughly by the person in charge. The complainant and all persons against whom the complaint is directed shall be given an opportunity to express their views of the complaint. In case the complaint aims at the protection of rights ensuing from labour relations and in case the complainant requests so, the person in charge shall discuss the content of the complaint with the trade union.
- (8) In case the complaint is resolved in person, the person in charge shall make a written record, which shall contain the names of the participating persons, the reason for, course and result of the discussion, date and signatures of the participating persons. If any participating person refuses to sign the record, the person in charge shall note it in the record together with the reason for refusal.
- (9) The person in charge registers all documents concerning the processing of the complaint in the Submission Records.
- (10) On the basis of the investigation into the complaint, the person in charge shall draw up a report summarizing the results of the investigation and assessing the legitimacy of the complaint. The person in charge shall inform the ombuds that the record has been made.
- (11) If the complaint is legitimate in whole or in part, the person in charge shall adopt remedial measures. If such measures are outside the authority of the person in charge, the person in charge shall deliver a proposal for remedial measures to the relevant employee of MU.
- (12) The person in charge shall notify the complainant and the persons against whom the complaint is directed about the result of the processing. The notification shall include conclusions concerning legitimacy, their reasoning and information about remedial measures adopted or proposed.
- (13) If there is a reasonable suspicion that the complaint was not properly processed, the Rector may, at the request of the complainant or on their own initiative, review the way in which the complaint was processed. The review results shall be communicated by the Rector in an adequate manner to the complainant, the person against whom the complaint was directed and the person in charge.

Section 9

Receiving and Processing Petitions

- (1) Petitions are received by the ombuds and processed by a person in charge.
- (2) The person in charge registers all documents concerning the processing of the petition in the Submission Records.
- (3) The person in charge informs the ombuds of the dispatch of a written answer under Section 5(3) of the Act on the Right to Petition.
- (4) Unless the procedure for processing a petition is regulated by the Act on the Right to Petition, the provisions of Section 8 regarding the processing of complaints shall apply as appropriate.

Section 10

Common Provisions

- (1) In performing the activities under this Directive, the ombuds is not subordinate to anyone and is not bound by any instructions. The Rector is entitled to determine a deadline for the ombuds' action under this Directive.
- (2) Each employee and student of MU is obliged to provide the ombuds with opinions and cooperation during the performance of activities under this Directive. The ombuds is entitled to inspect any and all documents processed at MU and to access all information systems of MU.

- (3) Each employee of MU is obliged to promptly notify the relevant person in charge or the ombuds of their conflict of interest concerning the rights protected under this Directive.
- (4) The ombuds is entitled to issue instructions and methodologies for the receipt and processing of notifications, and methodologies for the receipt and processing of complaints and petitions.
- (5) A person in charge is entitled to delegate the performance of activities under this Directive to other persons but shall ensure that those persons are subject to the same obligations as the person in charge when performing activities under this Directive.
- (6) A person against whom the Submission is directed and/or a person whose relationship to the subject matter of the Submission and/or the participants constitutes a reason for doubting their impartiality are excluded from the processing of a Submission under this Directive. Everyone is obliged to inform the ombuds about a potential reason for exclusion from processing. If such reason rests with the ombuds, the ombuds shall inform the Rector thereof.
- (7) In case of doubt concerning the exclusion under subsection 6, the decision shall be made by the ombuds. If the exclusion concerns the ombuds, the decision shall be made by the Rector.
- (8) The obligation of confidentiality under this Directive may be waived by the ombuds or the Rector.
- (9) In case the ombuds or a person in charge decides on suspension of a Submission, they shall promptly notify the reporting person or the complainant and the person against whom the notification or the complaint are directed.
- (10) Delivery under this Directive is regulated by the provisions of the Administrative Procedure Code, which apply mutatis mutandis. Delivery under this Directive is also possible via MU records management system and/or IS MU email.
- (11) The calculation of periods under this Directive is regulated by the provisions of the Administrative Procedure Code, which apply mutatis mutandis.

Section 11

Transitional Provision

Complaints, motions, notifications and petitions delivered prior to the effective date hereof shall be processed in accordance with the existing MU regulations.

Section 12

Final Provisions

- (1) This Directive repeals the Rector's Directive No. 3/2008 – Processing and Registration of Complaints, Motions and Petitions at Masaryk University of 9 January 2020, effective from 13 January 2020.
- (2) The ombuds is authorized to interpret the individual provisions hereof.
- (3) This Directive is part of the methodological procedure "Protection of Rights".
- (4) The compliance with this Directive shall be inspected by the ombuds.
- (5) This Directive shall enter into force on the day of its execution.
- (6) This Directive shall enter into effect on 1 April 2023.

electronic signature

Martin Bareš
Rector