

## **1. 2002 University Act**

### **Annulment of assessments**

**§ 74.** (2) The result of an examination, academic paper or art master's or diploma submission shall, further, be annulled if such result was obtained by fraudulent means, in particular by the use of unauthorized aids.

### **Revocation of Austrian academic titles**

**§ 89.** The governing body responsible for study matters shall revoke and recall the notice of award if it subsequently transpires that a title has been obtained by fraudulent means, in particular the use of counterfeit certificates.

## **2. The statutes of the University of Vienna relating to legal aspects of study**

### **Safeguarding good scientific practice**

**§ 18.** (1) Students must observe the rules of good scientific practice (as given in the Guidelines from the University Administration dated 31 January 2006, *Mitteilungsblatt der Universität Wien*, study year 2005/06, issue 15 no. 112). Their observance must be monitored, in particular to prevent incidences of plagiarism. Further provisions will be determined by the Dean of Studies in accordance with the University Administration and the University Senate.

(2) In the event that a student is guilty of a serious breach of the code of good scientific practice in the preparation of an academic paper, the Dean of Studies will consult the leader of the programme of study and the supervisor and shall then take the necessary steps to ensure that the student observes the code in future. The Dean of Studies may order a change to the topic of the work or may suggest several themes, from which the student may select one to continue his or her work. In some cases it may be necessary to require the student to prepare a new paper on another topic relating to a different discipline of his or her study. The supervisor may request to be relieved of his or her responsibility to supervise the student in question; any such request must be granted.

(3) If an academic paper has been positively assessed but it subsequently transpires that it has been prepared in contravention of the rules of good scientific practice (in particular if there has been a case of plagiarism), a procedure to invalidate the assessment shall be invoked in accordance with § 74 para. 2 of the 2002 Universities Act. If the result of the academic paper is annulled, in a further step any academic title that has been awarded shall be revoked in accordance with § 89 of the 2002 Universities Act. Should the student wish to resume or continue his or her studies, para. 2 applies.

**3. Decree, Guidelines from the University Administration**

Mitteilungsblatt der Universität Wien, study year 05/06, 31.01.2006, issue 15 no. 112

The University Administration has released the following guidelines:

**112. The University of Vienna's Ombudsman to safeguard good scientific practice**

Contents

**I. Safeguarding good scientific practice**

§ 1 General

§ 2 Authorship of scientific publications

§ 3 Young scientists and scholars

**II. Scientific misconduct**

§ 4 Scientific misconduct by scientists

§ 5 Joint responsibility for misconduct

**III. Ombudsmen and Standing Committee**

§ 6 Ombudsmen

§ 7 Responsibilities of the Ombudsmen

§ 8 Appointment and responsibilities of the Standing Committee

§ 9 Composition and Chair of the Standing Committee

**IV. Procedure in the event of a report of scientific misconduct**

§ 10 Report of suspicion

§ 11 Initial investigations by the Ombudsman

§ 12 Principles of Standing Committee procedures

§ 13 Sequence of Standing Committee procedures

§ 14 Standing Committee decisions

§ 15 Care of persons involved

**V. Possible consequences of scientific misconduct**

§ 16 The Rector's decision

§ 17 Academic consequences

§ 18 Legal consequences on employment

§ 19 Consequences arising from civil law

§ 20 Consequences arising from criminal law

§ 21 Information to third parties requiring protection and to the public

**VI. Reports and publications**

§ 22 Reports to the University Administration

§ 23 Publications

**VII. Entry into force**

§ 24 Entry into force

Annex 1 – Members of the Ombudsman's office 2006-2008

Annex 2 – Coordination of the Ombudsman's office

## Preamble

A basic precondition for scientific work is that scientists are honest. In contrast to error, dishonesty in scientific work is in contradiction to science's inherent demands. The following guidelines for safeguarding good scientific practice are intended to contribute to avoiding scientific misconduct and thus to promoting the quality of scientific work. The honesty demanded from scientists cannot be replaced by a set of regulations. There are no legal provisions able to prevent misconduct in scientific work. However, with the aid of rules it may be possible to minimize misconduct.

Scientific misconduct may not be assessed solely on the basis of general rules. In determining the appropriate consequences of misconduct the circumstances of each particular case need to be taken into account.

## I. Safeguarding good scientific practice

### § 1 General

- (1) The following demands should be satisfied by good scientific practice:
  1. Investigations must be performed according to the rules (*lege artis*). Knowledge of the current status of research and of the appropriate methodology is essential.
  2. Experimental work absolutely requires precise record-keeping and documentation of scientific actions and of the results because reproducibility is a key characteristic of such research. The methods used and the results obtained must be documented. Primary data must be carefully stored and retained for a period of ten years.
  3. Results must be consistently and critically questioned. Openness to criticism and doubts expressed by colleagues and co-workers is part of this process, as is the careful, disinterested and unbiased review of colleagues' work and declining to review work in the case of a conflict of interest.
  4. Scientific results should be made available to the scientific public by means of publications. Thus, scientific publications represent – like a scientific observation or a scientific experiment itself – a form of documentation of the results of scientists' work.
  5. Strict honesty must be maintained with regard to the contributions of partners and of competitors. The work of competitors should not be hampered or obstructed.
  6. The basic principles of scientific work in the individual scientific disciplines are to be observed. Thus originality and quality should always be treated as more important than quantity, especially in examinations and in awarding academic titles, in hiring staff and appointing professors as well as in the assessment of research performance.
- (2) The University of Vienna recognizes its responsibility to its graduates and – with reference to the present guidelines – includes information on the principles of scientific work and of good scientific practice in the basic study courses offered to students, stressing the importance of honesty and responsibility in science. Students' attention is also drawn to the dangers of scientific misconduct.
- (3) The University of Vienna also meets its responsibility to its young scientists and its technical personnel by instructing them – with reference to the present guidelines – at the level of faculty or centre on the principles of scientific work and of good scientific practice. The information is given in writing and receipt acknowledged by means of a signature. This generally takes place at the time of hiring.
- (4) All scientists and scholars of the University of Vienna are required to adhere to the present guidelines.

### § 2 Authorship of scientific publications

- (1) If several persons are involved in a piece of research or in writing a scientific report, persons should be included as co-authors if they contributed significantly to conceiving the topic of investigation or the research plan, if they contributed to the performance of the experiments or to the evaluation or interpretation of the results or if they contributed to drafting the manuscript or made important sugges-

tions for rewriting it.

- (2) A purely technical participation in gathering data, in making available financial support or simply heading the department in which the research was undertaken does not represent justification for a co-authorship. The same applies to correcting a manuscript without contributing intellectually to the contents.
- (3) In agreeing to be named as co-author, a scientist or scholar accepts joint responsibility for ensuring that the publication satisfies the demands of scientific work. This is especially important in the area to which the co-author contributed. A co-author is responsible both for the correctness of his or her contribution and for ensuring that it is included in the publication in a scientifically acceptable manner.
- (4) If individual scientists are named as co-authors of a publication without their knowledge and if they do not feel able to agree subsequently to being co-authors, it is expected that they will raise objections against being named as co-authors to the person primarily responsible for the publication, to the editorial office of the journal in question and to the publisher.
- (5) If individual scientists are not named as co-authors of a publication despite having made a substantial contribution to the preparation of the academic work as detailed in para. 1, they should initially contact the first author of the publication and, if this does not lead to a successful outcome, subsequently address their concerns to the head of the appropriate organizational unit at the University.

### § 3 Young scientists and scholars

- (1) At the latest with the start of their master's, diploma and/or doctoral work, young scientists and scholars start working scientifically. As well as teaching them the appropriate methods, the University transmits to them an ethical position to scientific work, to dealing with results in a responsible manner and to working together with other scientists.
- (2) Young scientists and scholars have the right to regular scientific supervision, advice and support.

## II. Scientific misconduct

### § 4 Scientific misconduct by scientists

There is a case of scientific misconduct:

1. in the event of the deliberate or grossly negligent inclusion of false information in a scientific context. The circumstances of the individual case are decisive. False information includes in particular:
  - a) the fabrication of data;
  - b) the falsification of data, e. g.
    - i) the exclusion of unwanted results without declaring them;
    - ii) the manipulation of a representation or figure;
  - c) incorrect information in an application for employment or for funding (including incorrect information relating to forms of publication or to publications in press);
  - d) incorrect assertions that work that is submitted has been checked by (particular) scientific experts;
  - e) a recommendation to publish the work of others without having checked it.
2. in the event of damages to the intellectual property of other scientists. Such damages occur in particular:
  - a) by unauthorized exploitation following a claim of authorship (plagiarism);
  - b) taking advantage of the research approaches and ideas of others, particularly if these have been gathered as a result of refereeing activity (theft of ideas);

- c) claiming or acceptance of unjustified authorship or co-authorship of a scientific work;
  - d) the unauthorized publication and unauthorized making available of a work, discovery, hypothesis, theory or research approach to third parties before it has been published by the author;
3. in the event of the deliberate or grossly negligent hindering of the research work of other scientists, as well as of thoughtless and dishonest attempts to lower the scientific reputation of another scientist;
  4. in the event of the sabotaging of research activities (including damaging, destroying or manipulation of experiments, equipment, documents, hardware, software, chemicals or other goods that another scientist requires to undertake his or her research);
  5. in the event of the destruction of primary data or of the disregard of the requirement for record-keeping and documentation given in § 1 para. 1 no. 2.

### § 5 Joint responsibility for misconduct

There may be a joint responsibility for misconduct, among other cases, in the event of:

1. participation in the misconduct of others,
2. being an accessory to falsification by others,
3. co-authorship of publications including falsifications,
4. gross neglect of supervisory responsibility.

## III. Ombudsmen and Standing Committee

### § 6 Ombudsmen

The Rector will appoint – with their agreement – two experienced and internationally recognized scientists to act as Ombudsman and Deputy Ombudsman. They will be the contact persons for all scientists who wish to raise charges of scientific misconduct. Their period of office will be three years and they may be reappointed for a single further period of three years. The two persons nominated should belong to different faculties of the University of Vienna.

### § 7 Responsibilities of the Ombudsmen

The Ombudsmen have the following responsibilities:

1. advising University staff with regard to communications about scientific misconduct;
2. examination of evidence of scientific misconduct;
3. instigation of procedures in the Standing Committee;
4. care of persons concerned after conclusion of a procedure by the Standing Committee;
5. documentation and reporting.

### § 8 Appointment and responsibilities of the Standing Committee

- (1) The University Administration will appoint a Standing Committee to investigate evidence and accusations of scientific misconduct.
- (2) The Standing Committee will undertake an impartial examination of the evidence and its investigations will be directed at establishing the material truth of whether scientific misconduct has occurred. In its investigations of cases submitted to it, all incriminatory and exonerating evidence is to be examined.

### § 9 Composition and Chair of the Standing Committee

- (1) The Standing Committee is composed of the Ombudsman, his or her Deputy and three further experienced scientists from the University of Vienna, who are appointed – with their agreement – by the Rector to serve for a period of three years. Reappointment for a further three-year period is

permitted. All five members enjoy the same voting rights.

- (2) The Standing Committee will be chaired by the Ombudsman or by his or her Deputy. He or she is responsible for convening and chairing Standing Committee meetings as well as for representing the Standing Committee to other University bodies.

#### **IV. Procedure in the event of a report of scientific misconduct**

##### **§ 10 Report of suspicion**

- (1) Members or former members of research groups and staff or former staff of the University of Vienna should inform the Ombudsmen of any precise suspicions that may have reached them relating to an incidence of scientific misconduct by a member of the University staff.
- (2) The information should be given in writing, citing the incriminatory facts and evidence. A report given merely verbally should be recorded in the form of a memorandum.

##### **§ 11 Initial investigations by the Ombudsman**

- (1) One of the two Ombudsmen will consider the charges and will attempt to clarify them in his or her initial investigations. During the course of the investigations the University staff member under suspicion of misconduct is to be informed of the charges and given the opportunity to respond to them.
- (2) If the preliminary investigations do not fully remove the suspicion of scientific misconduct, the Ombudsman who has been handling the case presents it to the Standing Committee for further consideration.
- (3) If, based on the results of his or her initial investigations, the Ombudsman who has been handling the case reaches the conclusion that there has not been any scientific misconduct the case is closed.
- (4) The results of the initial investigations will be communicated in writing to the whistle-blower, to the persons involved in the case and to the University staff member against whom suspicions were raised.
- (5) If they are not satisfied with the Ombudsman's decision, the whistle-blower and the other persons involved in the case may insist that the case is submitted to the Standing Committee.
- (6) The Ombudsman will inform the Rector of the results of the initial investigations.

##### **§ 12 Principles of Standing Committee procedures**

- (1) Either of the two Ombudsmen may convene the Standing Committee to consider a case. Judicial or administrative procedures are unaffected.
- (2) The Standing Committee is quorate if at least three members are present. Decisions are taken by simple majority of voting members present.
- (3) Standing Committee meetings are not open to the public.
- (4) The most important results of the meetings are to be recorded in the minutes.
- (5) To protect all persons concerned, absolute confidentiality is to be maintained.

##### **§ 13 Sequence of Standing Committee procedures**

- (1) The Ombudsman who has undertaken the initial investigation presents the case to the remaining members of the Standing Committee. The information presented includes the initial report of suspicion, the measures taken to resolve the case and the statements obtained as well as his or her decision at the conclusion of the initial investigation and any reactions from the persons concerned.
- (2) The Standing Committee decides on any further steps required for the full clarification of the case and also assumes responsibility for them. The Committee may commission one of its members to undertake particular investigations and subsequently to present a report to the Standing Committee.
- (3) If required, expert witnesses may be summoned although they will not have voting rights.
- (4) By setting appropriate deadlines the Standing Committee will ensure that cases submitted to it are

handled promptly.

- (5) The Standing Committee will consult the whistle-blower and all persons affected by the repercussions of the case according to the status of the investigations, either verbally or in writing. These persons will have the opportunity to submit a statement on the result of the investigation within a reasonable period of time afterwards (generally three weeks).
- (6) The persons concerned – the whistle-blower, the person under suspicion and all other persons whose positions or rights as scientists could be influenced by the facts underlying the case – may be accompanied to hearings in front of the Standing Committee by a person of their choice.

### § 14 Standing Committee decisions

- (1) After the conclusion of its investigations, the Standing Committee should if possible decide within a period of four weeks whether the charges are to be upheld and whether there has been a case of scientific misconduct.
- (2) If the Standing Committee believes that there has been a proven case of scientific misconduct it shall inform the Rector in writing of this conclusion and shall propose possible consequences.
- (3) If the Standing Committee believes that the case of scientific misconduct has not been proven or that the matter relates to a minor misconduct, the case shall be discontinued. The Rector will be informed of the decision.
- (4) In any event, the decision and the major reasons for it shall be communicated to all persons involved in writing and with proof of delivery.
- (5) The Standing Committee may be requested to reopen a case that has been discontinued or closed only if new facts or evidence are submitted that either alone or in conjunction with the results thus far could be expected to lead to a different decision.
- (6) All documents relating to the investigation will be retained for a period of ten years.

### § 15 Care of persons involved

- (1) After completion of an investigation, care should be taken to ensure that innocent persons involved in cases of scientific misconduct do not suffer any further disadvantage in regard to their personal dignity or scientific integrity.
- (2) Whistle-blowers must be protected against any disadvantage if the charges they have brought have not been proven to be completely untenable.

## V. Possible consequences of scientific misconduct

### § 16 The Rector's decision

If the Standing Committee has concluded that there has been a case of scientific misconduct and has reported accordingly as provided for by § 14 para. 2, the Rector will consider the Standing Committee's proposals and decide on measures to be taken. The primary considerations are the maintenance of scientific standards and the rights of all persons immediately or indirectly involved, the nature and severity of the scientific misconduct as well as the necessity for its punishment.

### § 17 Academic consequences

- (1) The Rector will initiate any internal consequences of scientific misconduct.
- (2) In addition and to the extent provided for in the relevant legal provisions, an academic title awarded by the University of Vienna may be annulled if it has been granted based on intentional or grossly negligent scientific misconduct. If the scientific misconduct is sufficiently severe to warrant this step, the Rector will inform the University bodies responsible for taking such measures.
- (3) The Rector will inform other universities or external scientific institutions and associations of the scientific misconduct if these universities, scientific institutions or associations are immediately af-

ected by it or if the scientist concerned has a leading position in the institution or participates in a decision-making body of a funding organization or similar.

### **§ 18 Legal consequences on employment**

If the person concerned is employed by the University of Vienna, scientific misconduct may have consequences relating to his or her employment up to and including dismissal, the giving of notice or the initiation of disciplinary proceedings.

### **§ 19 Consequences arising from civil law**

All possible consequences of scientific misconduct provided for by civil law may be considered, in particular rights relating to restitution (with regard to stolen material), to rights from abstention from copyright, patent rights and competition law, to claims for repayment (from fellowships or third-party funding) and to claims for damages from the University of Vienna or third parties.

### **§ 20 Consequences arising from criminal law**

If there is the suspicion that a criminal offence has been committed, the Rector must be informed immediately so that he or she may report it to the appropriate authorities (in accordance with § 84 of the Code of Criminal Procedure, StPO).

### **§ 21 Information to third parties requiring protection and to the public**

Any third parties involved and if necessary also the media should be informed of the results of the formal investigation and of the further measures taken to the extent necessary to maintain confidence in scientific honesty, in particular for the protection of third parties, to restore the scientific reputation, to prevent further damage or if doing so is otherwise in the public interest.

## **VI. Reports and publications**

### **§ 22 Reports to the University Administration**

In addition to § 14, the Standing Committee of the University of Vienna submits annual reports on its work to the University Administration. The reports should include general experiences and principles relating to good scientific practice. The Committee may also present brief and anonymous summaries of the cases with which it was involved during the period in question.

### **§ 23 Publications**

The Standing Committee may include general guidelines and recommendations relating to the standards of good scientific practice on its Internet site. To ensure confidentiality, no names of people should be mentioned in any of the cases described.

## **VII. Entry into force**

### **§ 24 Entry into force**

The present guidelines enter into force on the day following their publication in the *Mitteilungsblatt der Universität Wien*.

The Rector:  
Winckler