

Rules of procedure in cases of suspected scientific misconduct

I. Scientific misconduct

Scientific misconduct occurs when false statements are made deliberately or through gross negligence in a scientific context, the intellectual property of others is infringed, or their research activities are otherwise impaired.

Misconduct may include, but is not limited to:

< False data >

1. the invention of data;
2. falsification of data, e.g.
 - a) by selecting and rejecting undesired results without disclosing this,
 - b) by manipulation of a representation or illustration;
3. incorrect information in an application letter or grant proposal (including misrepresentation of the publication organ and publications in print);

< Intellectual property infringement >

4. with respect to a copyrighted work created by another or substantial scientific knowledge, hypotheses, doctrines, or research approaches originating from others
 - a) the unauthorized exploitation under presumption of authorship (plagiarism),
 - b) the exploitation of research approaches and ideas, especially as reviewers (theft of ideas),
 - c) the presumption or unfounded assumption of scientific authorship or co-authorship,
 - d) the falsification of the content or
 - e) unauthorized publication and making available to third parties as long as the work, finding, hypothesis, doctrine or research approach has not yet been published.
5. claiming the (co-)authorship of another without the latter's consent;

< Interference with the research activities of others >

6. sabotage of research activity (including damaging, destroying, or manipulating experimental setups, equipment, records, hardware, software, chemicals, or other property needed by another to conduct an experiment).

< Shared responsibility >

7. joint responsibility may arise from, among other things:
 - (a) active participation in the misconduct of others;
 - b) joint knowledge of counterfeiting by others;
 - c) Co-authorship of publications containing forgeries;
 - d) gross neglect of the duty of supervision.

The circumstances of each individual case are ultimately decisive.

II. Bodies for Conducting the Examination of Scientific Misconduct and Rules of Procedure

As a contact person for incidents of scientific misconduct, the rules for ensuring good scientific practice adopted by the Board of Trustees of the Parmenides



Foundation on December 15, 2006 provide for the appointment of an ombudsman. The Foundation's management is entrusted with the investigation of allegations of scientific misconduct.

1. Tasks and position of the ombudspersons

Anyone who is confronted with concrete circumstances that could justify a violation of the rules of good scientific practice or a suspicion of scientific misconduct should be given an effective opportunity to speak out about it without having to fear disadvantages for their own person. The ombudsperson is therefore directly available for consultation as a person of trust in all matters of good scientific practice and in cases of suspected scientific misconduct. The appointment of the ombudsperson is also intended to resolve the possible conflict situation that can arise, especially for junior scientists, from the contradiction between loyalty to a supervisor or a working group and the obligation to behave in a scientifically correct manner.

The appointment of ombudspersons is intended to create an independent point of contact and advice for whistleblowers as well. The ombudsperson is bound to confidentiality. In the performance of their duties, the ombudspersons are independent of the foundation's management and of any superiors or colleagues. The ombudsperson may initiate a discussion with the foundation's management, but is not obligated to share the information received with the institute's management and is not authorized to confront the suspect. Should the ombudsperson come to the conclusion that the allegations made are plausible in his/her estimation, he/she shall forward the matter to the foundation management

2. Election mode and term of office of the ombudspersons

All members of the Faculty of the Parmenides Foundation are eligible for election. The election is made by the Board of Trustees of the Parmenides Foundation. Ombudspersons are generally elected for a period of three years; re-election is possible. In due time before the end of the current term of office, the election for a new term of office shall be held. As long as no new election has taken place, the previous ombudsperson remains in office.

3. Procedure

3.1 Preliminary examination

3.1.1) In the case of concrete suspicions of scientific misconduct, the ombudsman or, if necessary, a member of the Foundation's management or the Board of Trustees shall be informed immediately. The information should be provided in writing; in the case of verbal information, a written note of the suspicion and supporting evidence must be included.

3.1.2) The Ombudsman shall forward allegations of scientific misconduct to the Foundation's management, which shall investigate the matter, while maintaining confidentiality for the protection of the informant and the persons concerned.



3.1.3) The person affected by the suspicion of misconduct shall immediately be given the opportunity by the foundation management to comment, stating the incriminating facts and evidence. The deadline for the statement is generally two weeks. The name of the informant will not be disclosed to the person concerned at this stage without his or her consent.

3.1.4) After receipt of the statement of the person concerned or after expiration of the time limit, the foundation management shall make a decision within two weeks as to whether the preliminary examination procedure is to be terminated - with notification of the reasons to the person concerned and the informant - because the suspicion is not sufficiently confirmed or an alleged misconduct has been fully clarified, or whether a transfer to the formal investigation procedure is to be made. If the informant does not agree with the termination of the investigation procedure, he or she has the right to appeal to the foundation management within two weeks, which will review its decision.

3.2 Formal investigation

3.2.1) The foundation management may, at its own discretion, call in experts from the field of a scientific issue to be assessed as well as experts for dealing with such cases as additional members with an advisory vote. These may include, among others, arbitration advisors.

3.2.2) The foundation management deliberates in non-public oral proceedings. It shall examine whether scientific misconduct has occurred by freely evaluating the evidence. The scientist who is accused of misconduct shall be given the opportunity to comment in an appropriate manner. The person concerned shall be heard orally at his/her request; he/she may be assisted by a person of his/her confidence. This also applies to other persons to be heard.

3.2.3) The person concerned may claim a possible bias of the ombudsman or a member of the foundation's management during the formal investigation, as well as the investigators may do so with regard to their own person.

3.2.4) Disclosing the name of the informant may become necessary if the data subject cannot otherwise defend himself or herself properly, for example because the credibility and motives of the informant must be examined with regard to the allegation of possible misconduct.

3.2.5) Until culpable misconduct has been proven, the Foundation's management shall treat the information about the parties involved in the proceedings and the findings to date as strictly confidential.

3.2.6) If the management of the Foundation considers misconduct to be unproven, the proceedings shall be discontinued. If the management of the Foundation considers misconduct to be proven, it shall submit the result of its investigation to the Board of Trustees with a proposal for further proceedings, also with regard to safeguarding the rights of others, for decision and further action. Otherwise, the proceedings shall be discontinued.



3.2.7) The essential reasons that led to the discontinuation of the proceedings or to the forwarding to the Board of Trustees shall be immediately communicated in writing to the person concerned and to the informant.

3.2.8) There is no internal appeal procedure against the decision of the foundation management.

3.2.9) At the end of a formal investigation procedure, the ombudsman contacts all persons who are (were) involved in the case. He advises those persons, in particular the employees, who have been involved in processes of scientific misconduct through no fault of their own, with regard to safeguarding their personal and scientific integrity.

III. possible sanctions or consequences in case of scientific misconduct

The following catalog of possible sanctions or consequences for scientific misconduct is to be understood - without claiming to be complete - as an initial guide. Since each case is likely to be different and the severity of the identified scientific misconduct also plays a role, there is no uniform guideline of adequate reactions; rather, these depend on the circumstances of the individual case.

1. Consequences under labor law

1.1 Salaried employees

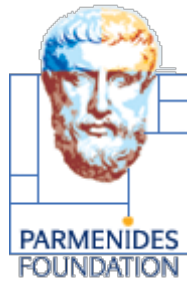
If the person concerned in a case of scientific misconduct is an employee of the Parmenides Foundation, consequences under employment law should always be examined first.

1.1.1) Warning notice

The warning - to be made in writing and included in the personnel file - is a preliminary step to termination, and is therefore only considered in cases of minor scientific misconduct in which termination is not yet to take place.

1.1.2) Extraordinary termination

Extraordinary termination requires that, under the circumstances of the individual case and after weighing the interests of both parties to the contract, the continuation of the employment relationship cannot reasonably be expected. In serious cases of scientific misconduct, this is likely to apply as a rule to the employment relationship between a research institute and a scientific employee working there. The notice of termination must be given within a period of two weeks, whereby the period begins to run at the time at which the party entitled to give notice becomes aware of the facts relevant to the termination. In this context, the point in time at which scientific misconduct is suspected is not already decisive, but the point in time at which the scientific misconduct was established (Section II.2 letter c of the Rules of Procedure) and communicated to the Foundation's Executive Board. An extraordinary termination for other important reasons remains unaffected. As a rule, the preparation of an extraordinary termination requires



special individual counseling under labor law. Particularly in the case of very urgent suspicion, it seems advisable to take advantage of such advice immediately in order to clarify whether a so-called suspicious termination is possible; in this way, the labor law risk can be prevented that, in individual cases, a court considers the aforementioned notice period of two weeks to have already begun to run from the time of knowledge of the urgent suspicion.

1.1.3) Ordinary termination

Ordinary termination, which is bound to the usual periods of notice under labor law, is likely to be considered less frequently in the cases under discussion here, since in the event of relevant scientific misconduct, it will regularly be necessary to resort to extraordinary termination at or else termination of the contract is likely to be preferable.

1.1.4) Termination of contract

In addition to terminating the employment relationship by ordinary or extraordinary termination, the possibility of terminating the employment relationship by mutually agreeable termination of the contract should be considered - taking into account the two-week period for extraordinary termination.

1.2 Associated employees

For the purposes of this policy statement, associated staff shall mean those scholarly forces that are affiliated with the Parmenides Foundation through collaborations or membership in the Parmenides Faculty.

1.2.1) Warning notice

In a less serious case of scientific misconduct, a written statement will be issued by the Parmenides Foundation warning of compliance with good scientific practice as defined in this action statement.

1.2.2) Termination of the cooperation / exclusion from the Parmenides Faculty

In case of scientific misconduct, the respective member will be expelled from the Parmenides Faculty or the cooperation agreement will be terminated.

IV. Academic consequences

Academic consequences in the form of withdrawal of academic degrees cannot be imposed by

Parmenides Foundation itself, but only by the bodies which awarded these degrees, i.e. as a rule by the universities. The latter are to be informed of serious academic misconduct if this has been in connection with the acquisition of an academic qualification. In particular, these include:

1. withdrawal of the doctoral degree or
2. revocation of the teaching license.

V. Civil law consequences



The following civil consequences may be considered:

1. issuance of a house ban;
2. claims for restitution against the person concerned, e.g. for the return of stolen goods, scientific material or the like;
3. claims for removal and injunctive relief under copyright law, personal rights law, patent law and competition law;
4. claims for repayment, for example of scholarships, third-party funds or the like;
5. claims for damages by the Parmenides Foundation or by third parties in the event of personal injury, property damage or the like.

VI. Criminal consequences

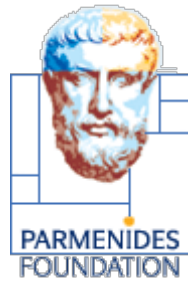
Criminal consequences are always considered if there is a suspicion that scientific misconduct simultaneously fulfills an element of the Criminal Code (StGB) or other criminal norms or administrative offenses. The involvement of the investigating authorities must always be coordinated with the General Administration.

Possible offenses include:

1. violation of the personal life/secret area.
 - Section 202a StGB: Spying out data
 - Section 204 StGB: Exploitation of another's secrets
2. crimes against life and bodily injury
 - § 222 StGB: Negligent homicide
 - §§ 223, 230 StGB: Intentional or negligent bodily injury
3. property crimes
 - § 242 StGB: Theft
 - § 246 StGB: Embezzlement
 - § 263 StGB: Fraud
 - Section 264 of the Criminal Code: Subsidy fraud
 - § 266 StGB: Infidelity
4. forgery of documents
 - § 267 StGB: Forgery of documents
 - Section 268 of the Criminal Code: Falsification of technical records
5. damage to property
 - § 303 StGB: Damage to property
 - § 303a StGB: Data alteration
6. copyright infringements
 - Section 106 of the Copyright Act: unauthorized exploitation of copyrighted works.

VII. Revocation of scientific publications / information of the public / press

Scientific publications that are erroneous due to scientific misconduct are to be withdrawn if they are still unpublished and corrected if they have been published (retraction);



cooperation partners are to be informed in an appropriate form if necessary. In principle, the author(s) and editors involved are obliged to do so; if they do not take action, the Parmenides Foundation will initiate the appropriate measures it can.

In cases of serious scientific misconduct, the Parmenides Foundation informs other research institutions or scientific organizations concerned. In justified cases, it may also be appropriate to inform professional organizations. The Parmenides Foundation may be obliged to inform affected third parties and the public in order to protect third parties, to maintain confidence in scientific honesty, to restore its scientific reputation, to prevent consequential damage, and in the general public interest.