

TECHNICAL UNIVERSITY IN ZVOLEN

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Organizational Directive No. 3/2010

Principles of receiving and handling complaints at the Technical University in Zvolen

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Scope:

Technical University in Zvolen

Submitted by:

prof. Ing. Ján Tuček, CSc., Rector

Processed by:

Ing. Eva Mihálová, Chief Controller

Checking compliance with the directive is authorised by:

Chief Controller, Management of the Technical University in Zvolen, Heads of Departments

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22. 02. 2010 by approval of the Rector's Advisory Board

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Article 1

Preamble

(1) On 01. 02. 2010 a new **Act No. 9/2010 Coll. on Complaints** entered into force, which repealed Act No. 152/1998 Coll.¹

(2) Act No. 9/2010 Coll. on Complaints regulates the procedure for filing, receiving, registering, investigating, and notifying in writing the result of the investigation or review of a complaint.

(3) The obligation to comply with the applicable Complaints Act is imposed on the Technical University in Zvolen (hereinafter also TU) by the Higher Education Act². According to Act No. 9/2010 Coll. on Complaints³, TU is a public administration body which acts in accordance with the cited Act because it is a legal person entrusted by the Act with making decisions on the rights, legally protected interests, or obligations of other persons. If the term "public administration body" is used in the following text of this Organisational Directive, it should be understood as the Technical University in Zvolen.

(4) Organizational Directive No. 3/2010 (hereinafter referred to as the Directive) is drawn up in accordance with the Act No. 9/2010 Coll. on Complaints (hereinafter referred to as the Act), which obliges public administration bodies to regulate the handling of complaints by an internal regulation by 31. 07. 2010.⁴

(5) The Directive is binding for all TU employees and its bodies.

Article 2

Definitions of terms

(1) **A complaint** is a submission by a natural or legal person (hereinafter also referred to as "the complainant") seeking protection of his/her rights or legally protected interests which he/she considers to have been violated by the action or inaction of a public administration body and a submission by which the complainant points out specific deficiencies, in particular violations of legal provisions, the elimination of which is within the competence of the public administration body (§ 3 (1) of the Act).

(2) A complaint under the Act is not a filing a complaint as defined in § 4 of the Act. Filing a complaint corresponding to § 4 of the Act is also specified in Article 6 of the Directive, together with the procedure that the TU is obliged to follow. If a TU employee has received a complaint the content of which, or part of which, complies with § 4 of the Act, he or she shall agree with the TU's Chief Controller on the method of applying the specified procedure before the expiry of the statutory time limit.

¹ Act No. 152/1998 Coll. No. 164/2008 Coll., on complaints as amended by Act No. 164/2008 Coll;

² § 20 (1) (f) of Act No. 131/2002 Coll. on Higher Education and on Amendments and Additions to Certain Acts, as amended;

³ § 2 (1) (c) of Act No 9/2010 Coll. on Complaints;

⁴ § 11 (1) and § 26 of Act No 9/2010 Coll. on Complaints;

(3) **A repeated complaint** is a complaint by the same complainant, in the same matter, unless it alleges new facts (§ 21(1) of the Act).

(4) **A complaint against the handling of a complaint and a complaint against the postponement of a complaint** is a complaint in which the complainant expresses disagreement with the handling or postponement of his or her previous complaint. It is a new complaint and is not a repeat complaint even if the complainant repeats the facts of a previous complaint (§ 22 (1) of the Act).

(5) A submission received by the TU is judged on its content. A submission not marked as a “complaint“, shall also be a complaint if it meets the conditions laid down in § 3 (1) of the Act.

(6) According to § 5 (2) of the Act, the obligatory requirements of a complaint are the data by which the complainant is identified - name, surname, address (natural person), name, registered office, name, and surname of the person authorised to act on his/her behalf (legal person). A complaint that does not contain these particulars shall be shelved by the Chief Controller of the TU after it has been registered in the complaints register.

Article 3

Basic obligations in receiving and handling complaints

(1) TU is obliged to accept the complaint (§ 9 of the Act). A complaint received by a TU workplace or a TU employee, submitted in writing, orally on the record, by telefax or by e-mail, is a complaint submitted to the Technical University in Zvolen.

(2) **Every complaint received at TU (including the VŠLP/University Forestry Enterprise) must be registered in the „Central Complaints Register “**, which is kept separately from other documents by the TU's Chief Controller. If a TU employee receives a complaint or determines from the contents of the record received that it is a complaint, he or she shall submit it to the TU Chief Controller, in the absence of the TU Rector's Secretariat, **no later than the next working day after its receiving**.

(3) The lodging of a complaint shall not be the occasion or the basis for drawing consequences which would cause the complainant any prejudice.

(4) The TU shall keep the identity of the complainant confidential if the complainant so requests or if it is in the interests of the resolution of the complaint. When investigating such a complaint, a copy shall be used to the extent that the complainant cannot be identified, or a copy of the complaint without the complainant's details (§ 8 of the Act).

(5) If a TU department creates a written record in connection with the handling of a complaint via the electronic filing room, it does not include information about the complainant or the person against whom the complaint is directed, so as not to violate § 8 of the Act.

(6) Every person shall keep confidential the identity of the complainant, if known to him or her, and the facts of which he or she has become aware while dealing with the complaint (§ 8; § 25 (3) of the Act). This is without prejudice to the obligation of confidentiality under other provisions.

(7) Information contained in documentation relating to the handling of a complaint shall not be disclosed.⁵ Information relating to the complainant, a natural person, which is processed by TU while handling a complaint is personal data.⁶

(8) An employee of TU is obliged to provide the person designated by the Rector of TU to deal with the complaint with the necessary assistance – to submit documents, statements, information necessary to deal with the complaint, unless a special regulation stipulates otherwise.⁷

(9) Where deficiencies have been identified in the investigation of a complaint, the head of the public administration body shall be responsible, pursuant to § 19 (1) (i) of the Act, for identifying the person responsible for the identified deficiencies, for taking measures to eliminate the deficiencies and the causes of their occurrence, for submitting a report on the implementation of the measures to the body investigating the complaint, and for applying legal liability, including for notifying the complainant of the measures taken.

(10) A TU management staff member or the head of a TU department within whose competence the complaint belongs is obliged to take measures to eliminate the deficiencies found during the investigation of the complaint. At the same time, he or she shall submit a written report on the implementation of the measures taken to the TU's Control Department.

(11) Violation of the provisions of the Act and failure to comply with this Directive shall constitute a breach of labour discipline.

Article 4

Jurisdiction to handle complaints

(1) The Rector of TU decides who will investigate and handle the complaint.

(2) The Rector of the TU delegates the authority to deal with a complaint to the Chief Comptroller of the TU, who is directly subordinated to the Rector.

(3) The Rector of TU, or in some cases the Chief Controller of the TU, may order a direct investigation of a complaint to the Head of a TU department if the content of the complaint belongs to his or her subject matter competence.

(4) If it is in the interest of a timely and proper investigation of the complaint, the Rector of the TU may appoint a committee to investigate the complaint.

(5) A complaint may not be assigned to the person against whom it is directed, or to an employee within his or her managerial competence, for investigation and handling. A person is excluded from the investigation and handling of a complaint if he or she has participated in the activity

⁵ § 8 to 12 of Act No. 211/2000 Coll. on Free Access to Information and on Amendments and Additions to Certain Acts, as amended;

⁶ § 3 of Act No 428/2002 Coll. on the Protection of Personal Data, as amended;

⁷ e.g., Act No 215/2004 Coll. on the Protection of Classified Information and on Amendments and Additions to Certain Acts, as amended;

which is the subject of the complaint and a person whose bias may be doubted due to his or her relationship to the complainant or to the subject of the complaint (§ 12 of the Act).

(6) **A repeated complaint** will be handled by the Chief Controller of the TU, who will check the correctness of the handling of the previous complaint and will draw up a record of this. If he or she finds that the previous complaint has not been handled correctly, he or she will investigate and deal with the complaint.

(7) **A complaint against the handling of a complaint and a complaint against the postponement of a complaint** shall be dealt with by the Rector of the TU or his authorised representative pursuant to § 22 (3) of the Act unless this is in contravention of § 12 of the Act. If another TU employee is entrusted with the investigation of the complaint, he or she shall only have the right to investigate the complaint and submit the result of the investigation to the Rector of the TU.

(8) The Rector of the TU authorises the Director of the University Forestry Enterprise of the TU (hereinafter referred to as VŠLP) to investigate and handle complaints which subject matter belongs to the competence of the University Forestry Enterprise, apart from complaints pursuant to § 21 and § 22 of the Act. The Rector of the TU or an employee authorised by him or her shall be competent to deal with a complaint against the Director of the VŠLP unless this is contrary to § 12 of the Act. Unless otherwise specified, the VŠLP shall adjust the competences of the Rector and the Chief Controller as set out in Articles 4 and 5 of the Directive accordingly, apart from Articles 4 (5), 4 (6), 4 (8) and 5 (1) (e) of the Directive. The authorisation shall take effect once the complaint has been registered in the Central Complaints Register of the TU.

(9) The Academic Senate of the TU is competent to deal with complaints against the Rector of the TU.

Article 5

Complaint handling procedure

(1) The TU employee who has been ordered to investigate the complaint shall:

a) immediately inform the person against whom the complaint has been made of the content of the complaint (to the extent that the investigation cannot be obstructed and to the extent that the complainant's identity can be kept confidential) and give him or her the opportunity to comment on the complaint (§ 15; Article 3(4) of the Directive),

b) by investigating the complaint, ascertains the actual situation and its compliance or non-compliance with generally binding legal regulations and TU's internal regulations,

c) draw up a record of the investigation of the complaint (Annex 1), determine whether the complaint or part of it is justified or unfounded and give reasons for it. In case of deficiencies found, it shall reflect in the minutes the obligation to take measures to remedy the deficiencies in accordance with § 19 (1) (i) of the Act and Article 3 (10) of the Directive,

d) **submit a report on the investigation of the complaint** to the Rector of the TU and in one copy to the Chief Controller of the TU **no later than 45 working days** from the date on which the complaint was received by the TU,

e) the original records created during the investigation of the complaint, or copies of mail sent, will be forwarded to the TU's Chief Controller, who will file them in the complaint file,

f) the complaint is investigated by discussing the minutes of the investigation of the complaint.

(2) The complaint is dealt with by written **notification to the complainant of the outcome of the investigation** (Annex 2). The notification shall be drawn up in accordance with the minutes of the investigation of the complaint and signed by the Chief Controller of TU and sent to the complainant after discussion with the Rector of the TU. The time limit **for dealing with the complaint is 60 working days** from the receipt of the complaint by the TU.

Article 6

Other principles deriving from Act No 9/2010 Coll.

(1) **Cases where the submission is not a complaint** under § 4 of the Act and **the procedure** of the public authority in such cases resulting from § 4 (3) to (5) of the Act and § 3 (3) (a) of the Act: ● a submission which is in the nature of an enquiry, statement, opinion, request, suggestion or proposal and does not clearly express the protection of which of its rights or legally protected interests the complainant seeks (return) ● a submission pointing to deficiencies in the activities of a public administration body, the elimination or handling of which is regulated by another legal regulation⁸ (return) ● a submission, which constitutes a complaint under a special regulation⁹ (referral) ● submission directed against a decision taken in proceedings under another regulation¹⁰ (referral if the decision is not final) ● submission drawing attention to shortcomings in the activity of another public administration body (return) ● submission by a person authorised by a court to exercise public authority (return). The above cases of return of a submission shall not be applied by a public authority if it is competent to deal with the submission under another regulation.

(2) **If the submission contains several parts** and ● if some parts of the submission are not a complaint under § 4 of the Act, the procedure is determined by § 3 (3) (a) of the Act (the parts are not returned, the reasons for not investigating them are stated in the notification of the result of the investigation of the complaint) ● if a public administration body is not competent to deal with some parts of the submission, the procedure is determined by § 3 (3) (b) of the Act (referral of the said parts to the competent body).

(3) **The public administration authority shall postpone the complaint** ● in the cases referred to in § 6 of the Act ● in the case specified in § 5 (6) of the Act, when the complainant refuses to sign the record of the oral complaint (the record is postponed) ● in the case specified in

⁸ e.g., Code of Civil Procedure, Code of Criminal Procedure;

⁹ e.g., Act No. 250/2007 Coll. on Consumer Protection and on Amendments to Act No. 372/1990 Coll. on Misdemeanours, as amended;

¹⁰ e.g., a decision issued pursuant to Act No. 71/1967 Coll. on Administrative Proceedings, as amended (e.g., in the case of the TU, a decision of the TU on the award of a social scholarship)

§ 5 (7) of the Act, if the complainant does not confirm the signature of the complaint submitted by e-mail within the specified time limit.

(4) The procedures specified by the public administration in Act No. 9/2010 Coll. on Complaints shall be applied by the TU (including VŠLP) as follows:

a) **the return of the submission and the referral of the submission** within the statutory time limit(s) will be preceded by agreement with the TU's Chief Controller,

b) **the deferral of a complaint** shall not be authorised by the TU and may only be deferred through the TU's Chief Controller.

(5) A written record shall be made of **an oral complaint** which cannot be dealt with by the TU immediately on its submission in accordance with § 5(4) of the Act (Annex 3).

(6) **A complaint filed by an e-mail or a telefax** shall be deemed to be in writing only if the complainant confirms it in writing with his or her signature within 5 working days of its lodgement (§ 5 (7) of the Act), otherwise the complaint shall be lodged with the Chief Controller of the TU after it has been registered in the Central Register of Complaints.

Article 7

General and final provisions

(1) The head of the public administration body in which the complaint is investigated is obliged to create appropriate material, technical and personnel conditions for the correct and timely investigation and handling of the complaint.

(2) Public administration bodies shall be obliged to submit an annual report on the handling of complaints to the central state administration body for the control of complaint handling upon request.

(3) The public administration bodies shall carry out control of complaint handling. The public administration body which has dealt with the complaint shall be entitled to check whether the measures taken to eliminate deficiencies and the causes of their occurrence are being properly implemented (§ 23 of the Act).

(4) If the content of the complaint is subject to an internal control of the TU based on a mandate from the Rector of the TU, the Act on Financial Control¹¹ shall be applied during the internal control.

(5) The relevant provisions of Act No 9/2010 Coll. on Complaints and related legislation shall apply to matters not covered by this organizational directive.

(6) The procedure for receiving and handling petitions at the TU is governed by the applicable Act on the Right to Petition.¹² A petition is subject to registration in the central register of the TU, just like a complaint.

¹¹ Act No. 502/2001 Coll. on financial control and internal audit, as amended;

¹² Act No 85/1990 Coll. on the right of petition, as amended.

(7) Amendments and additions to this Organizational Directive may only be made by written amendment signed by a statutory body of the TU.

(8) Organizational Directive No. 3/2010 shall enter into force upon approval by the TU Rector's College on 22. 02. 2010 and shall become effective on 01. 03. 2010.

(9) Upon the entry into force of Organizational Directive No. 3/2010, the Binding Instruction for the Investigation and Handling of Complaints and Petitions No. 2/1999-R of 07. 01. 1999 shall be repealed.

Annex: 1) Example of the complaint investigation report

2) Example of the notification of the outcome of the investigation of the complaint

3) Example of the record of an oral complaint

prof. Ing. Ján Tuček, CSc.

Rector of TU

Complaint investigation report

drawn up pursuant to § 19 of Act No 9/2010 Coll.

1. Complaint number: ¹....., received on

2. Subject of the complaint:

1. Adapt the following text to reality:

The complaint concerns in².

The complainant seeks³.

The complainant points to⁴, which it considers to be a violation of⁵.

2. If the complaint is divided into parts (points) or contains multiple objections, deficiencies and infringements, it is necessary to specify each of them.

3. The body competent to deal with the complaint, in which the complaint was also investigated:

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4. The period of investigation of the complaint:

5. Informing the person against whom the complaint is directed of the content of the complaint:

(Who, when - considering the restrictions on the confidentiality of the complainant's identity)

6. The persons who investigated the complaint:

7. Proven findings:

Minimum content that the findings must contain - adapt to reality:

*1. The investigation of the part of the complaint concerning in which the complainant refers to (deficiency, violation of the regulation) has been found to be **justified/unjustified**. * The reason for being unjustified/unjustified* is⁶. The investigation has shown a contradiction/non-compliance * with (Specify the legal regulation).*

2. To continue with the complainant's next objection or the next point of the complaint.

3. If the complaint consists of several parts and any part is not a complaint pursuant to § 4 of Act No. 9/2010 Coll., the reason for not investigating must be stated:

¹ The number of the complaint is assigned by the Chief Controller of the TU from the Central Complaints Register,

² The name of the organisational part or department of TU,

³ What rights or legally protected interests the TU should have violated and how,

⁴ What the deficiency was?

⁵ The legal provision which the complainant considers having been infringed,

⁶ State the specific facts, documents, statements, etc., which have been found, which demonstrate the unfoundedness,

The part of the complaint concerning is not a complaint according to § 4 of Act No. 9/2010 Coll., because ⁷(choose from the options in the note) and therefore has not been investigated.

4. Evidence supporting the findings: (List and document in an annex).

8. Obligations in the event of a finding of deficiencies (substantiated complaint) pursuant to § 19 (1) (i) of the Act:

- 1. identify the person responsible for the deficiencies found,*
- 2. to take measures to eliminate the identified deficiencies and the causes of their occurrence,*
- 3. submit the measures taken, a report on the implementation of the measures and the application of legal liability*

(The obligation applies to the Rector of TU/the authorised employee/head of staff whose remit the complaint relates to. The action must be specific, with a deadline for compliance and the person responsible for compliance. One of the measures should include the obligation to: „Submit a report to the Controller's Office on the implementation of the measures within 10 days after the specified deadline for implementation of the measure “.*

9. Date of the minutes:

10. Persons who investigated the complaint (name, surname, function, signature):

11. After reviewing the minutes, the Rector of TU / authorised representative* agrees with the results of the investigation of the complaint and the measures taken (name, surname, function, signature):

12. The complainant acknowledges knowledge of the measures: ⁸

name, surname

.....
signature

13. I confirm the return of all documents that were loaned to investigate the complaint:

Date:

handing over:

taking over:

Annexes:

SUBMISSION DEADLINE: no later than 45 days after receipt of the complaint in TU

⁷ A complaint pursuant to § 4 of Act No. 9/2010 Coll. is not a submission if: ● it is in the nature of an inquiry, statement, opinion, request and it does not clearly express the protection of the complainant's right or legally protected interest ● it points to deficiencies in the activities of a public administration body, the elimination or handling of which is regulated by another legal regulation (e.g. the Civil Procedure Code, the Code of Criminal Procedure) ● it is a complaint pursuant to a special regulation ● it is directed against a decision issued pursuant to another regulation, e.g. in an administrative proceeding pursuant to the Act No. 71/1967 Coll. (it may concern in TU e.g. a decision on the granting of a social grant, on the recognition of educational documents) ● it draws attention to shortcomings in the activity of another public administration body ● it is a submission by a person authorised by a court to exercise public authority,

⁸ Applies in the case of a justified complaint, provided that the complainant is from TU. The complainant from outside the TU should be notified of the measures in writing (in the notice of the outcome of the investigation) and the wording in the minutes should be adapted accordingly.

* Choose appropriate alternative.

No.:

Annex 2

Date:

Complainant

Notification of the result of the investigation of the complaint

On your complaint was received by the Technical University in Zvolen, whereby you claim....., refer to

(Describe the subject of the complaint)

Upon investigation of your complaint on, it has been determined that your complaint is unfounded/substantiated. *

Reasons for the outcome of the investigation of the complaint:

.....

(To be based on the minutes of the investigation of the complaint. Indicate the specific findings and compliance or non-compliance with the relevant legislation, or what has been remedied during the investigation. If the complaint has more than one part, the written communication must include the outcome of the investigation of each part. If the complaint is only part of a complaint, the outcome of the investigation shall be communicated in writing in respect of that part only.)

In the minutes of the investigation of the complaint, obligations were imposed pursuant to § 19 (1) (i) of Act No 9/2010 Coll. and the following measures were taken:⁹

(Act on the minutes of the investigation of the complaint)

With this notification, we consider your complaint resolved.

Yours sincerely

name, surname, function, signature
Chief Controller / authorised employee of TU

⁹ Applies in the case of a substantiated complaint and should be added if the complainant has not acknowledged knowledge of the action taken in the record of the investigation of the complaint

* Choose appropriate alternative.

RECORD
of oral complaint

A. Complainant:

Physical person (name, surname, address of permanent or temporary residence): *

Legal entity (name, registered office, name and surname of the person authorised to act for it): *

B. Subject of the complaint:

1. **The subject of the complaint is:**
2. **The complaint is directed against:** *
3. **The complaint alleges deficiencies:** *
4. **The complainant seeks:** *

On..... at hours.

Record made by (name, surname of employee of the *TU*):

Staff present at the oral presentation of the complaint (names and surnames):

.....
signature of the complainant

Remark:

If the complainant refuses to sign the record, the Chief Controller shall set the record aside with a note of refusal to sign.

* *Fill in, delete if not applicable*