

## Principles for Suspected Cases of Scientific Misconduct at the TU Berlin

Friday, 30. July 1999

### § 1

The Technische Universität Berlin (TU Berlin) will respond to every concrete suspicion of scientific misconduct at the TU Berlin. Should an examination of the situation confirm the suspicion of misconduct, the matter will be dealt with using appropriate means suitable to the given case.

### § 2

(1) Scientific misconduct is defined as the conscious or grossly negligent use of false information, the violation of the intellectual property of others, or compromising the research activities of another person in any other form, within a context relevant to science.

(2) Scientific misconduct is primarily committed through:

#### 1. Use of false information,

- by inventing data;
- by falsifying data, e.g. by the selective utilization of data and the omission of undesirable results without indicating the same; by manipulating depictions or illustrations;
- by utilizing incorrect information in a letter of application or a funding application (including incorrect information regarding the publication and works about to be published);

#### 2. Violation of intellectual property,

- in connection with a work created by another author with corresponding authorship rights, and in reference to essential scientific knowledge, theories, hypotheses, teachings or research techniques in such copyrighted works,
  - the unauthorized use of such material while claiming authorship of the same (plagiarism);

- the exploitation of research techniques and concepts from other persons, especially as an evaluator (theft of ideas);
- the of being a scientific author or co-author;
- the falsification of contents or
- the unauthorized publication and the unauthorized placement of such material at the disposal of third parties as long as the work, the findings, theories, the hypotheses, and the teachings or research techniques have not yet been published;
- through the claim of (co-)authorship with other persons without the consent of those persons.

### 3. Compromising the Research Activities of Others

- by sabotaging research work (including the damage, destruction or manipulation of written works, archive or source material, experiment protocols, devices, documentation, hardware, software, chemical substances or other objects required by another person in order to conduct research work).

(3) Shared responsibility can arise under certain circumstances through the active participation in the misconduct of others, through the shared knowledge about falsifications committed by another person, through the co-authorship of largely erroneous publications, or through gross neglect of legal duties.

### § 3

The President appoints a researcher of reputation to function as a contact person, adviser and arbitrator, who will also serve as a person of confidence to advise individuals bringing forth accusations of scientific misconduct (Ombudsperson). The Ombudsperson investigates the substance and significance of the accusations in accordance with plausibility criteria, and then decides whether to inform the Chairperson of the

Commission in accordance with § 4 of these principles. The right of the consulting party to directly approach the Commission in accordance with § 4 of these principles remains unaffected.

#### **§ 4**

In order to investigate cases of scientific misconduct, the President appoints an Investigation Committee. As members of the Investigation Committee, the President appoints three members of the TU Berlin who have excelled in their scientific work for a period of three years. At least two of these members must be university teachers. The Investigation Committee elects one of its members to be the Chairperson. The committee is free to request the participation of external persons who have special experience in dealing with such cases, and such persons may be granted an advisory function. The Committee is an autonomous organ but is also subject to the legal supervision of the President. The President assigns a member of the university administration qualified to exercise the functions of a judge to the Commission, with whom the Commission must negotiate all legal aspects of the investigation procedure.

#### **§ 5**

Should the Chairperson of the Investigation Committee receive information regarding a suspected case of scientific misconduct, either the Chairperson or the Committee informs the President without delay and initiates the necessary proceedings to investigate the situation.

In the framework of a preliminary examination procedure, the Committee decides whether or not the accusations brought forth are substantial and plausible enough to justify a full-scale investigation of the circumstances (main procedure). The accused party will be informed about the proceedings by the Committee and presented with the accusations and evidence, after which the accused party may offer an official response. A response from the accused party may be excluded, if an impairment of the investigation in a (possible) main procedure could result.

The final decision of the Commission as to whether a main procedure will be initiated or not is not contestable. Should the Commission decide not to initiate a main procedure, it then

reports this decision to the informing party. The informing party may submit a remonstrance against this decision within two weeks of notification, after which the Commission will re-examine its decision.

#### **§ 6**

(1) The meetings of the Investigation Committee are not open to the general public. In accordance with § 3 of these Principles, the Ombudsperson and a representative of the President may attend the meetings.

(2) Resolutions of the Investigation Committee are passed by a simple majority.

(3) The Investigation Committee is authorized to take all measures necessary to investigate the case. Additionally, the Committee may collect all necessary information and statements, including the assessments of experts from the relevant scientific disciplines in particular cases.

(4) The Commission may allow one of its members to function as a reporter in order to investigate a specific state of affairs. The reporter coordinates his/her activities with the Commission and presents a final assessment to the Commission about the results of the investigation. After this presentation, the Commission decides whether further investigation is necessary, or if the results from its reporter should be adopted by the Commission.

(5) The accused party must be informed about incriminating facts and any corresponding evidence, provided this does not negatively affect the investigation of the case.

(6) Both the accused and the informing party are to be granted the opportunity to present oral statements.

(7) If the identity of the informing party is unknown to the accused party, this must be disclosed to the latter if this information seems necessary for an effective defense on the part of the accused party, especially as the trustworthiness of the informing party possesses crucial significance for the determination of misconduct.

## **§ 7**

The Investigation Committee presents its report concerning the results of its work to the President, and also recommends a decision.

## **§ 8**

(1) On the basis of the report and recommendation from the Investigation Committee, the President decides whether to terminate the procedure or whether scientific misconduct has been adequately substantiated. In the latter case, the President decides what the consequences should be.

(2) The accused party and the informing party are to be informed about the final decision of the President. The decisive reasons leading to the final decision must be communicated as well.

(3) If the accusation of scientific misconduct has been brought before the Investigation Committee without justification, the President must decide which measures will lead to the rehabilitation of the unjustly accused party.

## **§ 9**

Procedures defined by these Principles must be carried out as quickly as possible, whereby the main procedure may not exceed six months at the most.