

# Luxembourg Agency for Research Integrity (LARI)

## Rules of Procedure for the National Commission for Research Integrity (CRI)—23 Nov 2018

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## 1. Preamble

- 1.1. The Luxembourg Agency for Research Integrity (LARI) is a non-profit organization (ASBL), established under the law of 21 April 1928, such as amended, on non-profit organisations and foundations. The founding members of LARI are:
  - The Luxembourg National Research Fund (FNR)
  - The University of Luxembourg
  - The Luxembourg Institute of Science and Technology (LIST)
  - The Luxembourg Institute of Health (LIH)
  - The Luxembourg Institute of Socio-Economic Research (LISER)
- 1.2. LARI and its members subscribe to the principles laid out in the *European Code of Conduct for Research Integrity* published in 2017 jointly by the European Science Foundation and by ALLEA (All European Academies).
- 1.3. Under Art. 7 of its Statutes, LARI establishes a National Commission for Research Integrity (CRI). The CRI's mission is to ensure an independent inquiry and investigation in cases of suspected scientific misconduct.
- 1.4. The present document defines the operational framework of the CRI. It is based on rules of procedure established by the Austrian Agency for Research Integrity (OeAWI) for their own Commission for Research Integrity. Due permission was obtained from the OeAWI to use their document as a basis for the present text.

## 2. Remit and general principles of the CRI

- 2.1. The role of the CRI is to promote adherence to the rules of good scientific practice and to ensure an independent inquiry and investigation in cases of alleged scientific misconduct. The identification of scientific misconduct shall be based on the criteria described in sections 2.2.4. (fabrication, falsification, plagiarism, failure to meet clear ethical and/or legal requirements) and 2.2.5. and 2.3. (violation of the rules of good scientific practice) of the *European Code of Conduct for Research Integrity*.
- 2.2. Other forms of misconduct fall outside the remit of the CRI. These include: inappropriate personal behaviour (e.g. workplace intimidation, discrimination, bullying, sexual harassment, inadequate leadership and mentoring), financial misconduct (e.g. misuse of funds, accounting fraud, bribery, corruption). In

general, the CRI will also not undertake actions that will conflict with the mandate of other authorities (e.g. CNER<sup>1</sup>, CNPD<sup>2</sup>, CNE<sup>3</sup>).

- 2.3. The CRI shall handle all cases of suspected scientific misconduct occurring in a member organisation of LARI or in any other research organisation benefitting from funding of the FNR.
- 2.4. The member organisations of LARI commit to report without delay all cases of suspected scientific misconduct detected in their organisation and to fully delegate to the CRI the inquiry and investigation of each case.
- 2.5. Although member institutions of LARI may decide to maintain institutional ombudsperson or committees (such as the University's Ethics Review Panel), the remit of these entities shall be restricted to a purely optional advisory role in matters related to research integrity.
- 2.6. The member organisations of LARI commit to ensure extensive cooperation with the CRI in cases where a procedure is initiated, in particular by making all required information available.
- 2.7. The CRI handles cases of research misconduct suspicions according to international best practices, in particular by respecting the principles laid down in Annex I of the *European Code of Conduct for Research Integrity*.

### **3. Composition of the CRI**

- 3.1. The CRI shall comprise at least three members. They are nominated by the Board of LARI for a maximum term of three years. The board of LARI will request assentment from the Minister in charge of public research for the proposed CRI members.
- 3.2. CRI members may be appointed for three consecutive terms at most.
- 3.3. A CRI member may be dismissed before the end of his term following a unanimous and motivated decision by the Board of LARI. The board of LARI will

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<sup>1</sup> CNER : *Comité National d'Éthique de Recherche* – National Committee on Research Ethics. The main role of the CNER is to protect the people taking part in a research project (clinical trials involving experimental drugs, therapies, medical devices, etc.). Its role is therefore bound to the fields of research that involve human subjects. A clinical trial may take place only after approval from the CNER and from the Ministry of Health. <http://www.cner.lu>

<sup>2</sup> CNPD : *Commission Nationale pour la Protection des Données* – National Commission for Data Protection. The CNPD verifies the legality of the processing of personal data and ensures the respect of personal freedom and fundamental rights with regard to data protection and privacy. <http://www.cnpd.public.lu>

<sup>3</sup> CNE : *Commission consultative Nationale d'Éthique pour les Sciences de la Vie et de la Santé* – National advisory committee on ethics in life and health sciences. The CNE's primary mission is to produce opinions and reports on ethical problems and societal issues raised by progress in the fields of biology, medicine and health. <http://www.cne.public.lu/commission/index.html>

request assentment from the Minister in charge of public research. The CRI will be invited to make a statement, which will be forwarded to the Minister.

- 3.4. Persons that are presently or that were formerly affiliated with Luxembourg research institutions and/or beneficiary institutions of the FNR are not eligible for membership in the CRI. Members are chosen so as to minimize the likelihood that conflicts of interest (such as defined in art. 5.6) may occur.
- 3.5. The members of the CRI shall represent a senior expertise in the field of science ethics and research Integrity as well as established researchers. The Board of LARI will seek advice from established research integrity and research ethics organisations and committees abroad for identifying suitable candidates for membership in the CRI.
- 3.6. The Board of LARI shall choose one member of the CRI to serve as Chair and one member to serve as Vice-Chair.
- 3.7. The duties of the Chair of the CRI shall include external representation in relevant national and international bodies, advisory membership in the Board of LARI and reporting on the CRI's activities to the Board of LARI once per year.
- 3.8. The Vice-Chair is entrusted with all the powers and duties of the Chair whenever the latter is unavailable or otherwise unable to perform his tasks.
- 3.9. The Secretary-general of LARI acts as an advisor to the CRI. He/she provides organizational support and ethical advisory support to the CRI. He/she has no voting rights and is bound to the same confidentiality rules as the members of the CRI.

#### **4. Competences of the CRI**

- 4.1. The CRI shall have the following duties and powers:
  - 1) Initial inquiry in cases of suspected scientific misconduct;
  - 2) Investigation of relevant facts in cases of suspected scientific misconduct;
  - 3) Preparation of opinions on the basis of fact-finding investigations in cases of suspected scientific misconduct;
  - 4) Regular reporting of evidence regarding problems with research integrity in the Luxembourgish research system and;
  - 5) Development of measures to prevent scientific misconduct.
- 4.2. The members of the CRI shall perform their duties in complete independence and, in their processing of individual cases, will not take any instructions from the Board of LARI or from any of its member organisations.

## 5. General procedural principles of the CRI

- 5.1. The CRI shall be convened whenever necessary. The Chair may announce a CRI meeting along with the accompanying agenda at any time. The Chair of the CRI is to convene a meeting without delay if a member of the CRI submits a request for such a meeting along with a draft agenda.
- 5.2. At least three members of the CRI must be in attendance in order to constitute a quorum. Members are allowed to participate in meetings *via* videoconference or teleconference. Resolutions shall be taken by a simple majority of votes. Where voting results in a tie, the Chair of the CRI shall have the casting vote.
- 5.3. If required, the CRI may also make decisions in the form of circular resolutions. Such motions are to be approved by the Chair and sent to all members of the CRI in writing or electronically along with the specification of a deadline for responses at least one week in the future. A motion is considered approved if the required majority of CRI members vote in favour of the motion within the specified period. However, a resolution shall not be considered approved in cases where one or more CRI members request a discussion of the motion, in which case a formal meeting will be scheduled.
- 5.4. *Written minutes of all CRI meetings are to be recorded by the secretary, drafted and distributed to participants for validation and to those absent for information.*
- 5.5. The members of the CRI and, more generally, all individuals that have access to information in the framework of the CRI's proceedings (e.g. members of LARI secretariat, external advisors and experts) are to maintain strict confidentiality in order to protect all persons involved. The procedures of the CRI shall not be public; in particular, the parties involved in procedures shall not have the right to inspect the CRI's written records or documents. The CRI members take all reasonable steps to ensure that any information related to their activity is kept in a secure place and in due course is disposed of in a secure fashion.
- 5.6. The members of the CRI must declare any personal, professional or financial conflict of interest (real or perceived) that they may have in handling a particular case, e.g. if they involve close associates or supervisors (actual or former), a member (actual or former) from his organization or company, a first- or second-degree relative of him, or any other person with whom there is or has been close relationship (professional or personal). Conflicts of interest of CRI members must be declared to the Chair of the CRI. If the Chair of the CRI is concerned, he will temporarily vacate the chair to the Vice-Chair of the CRI.
- 5.7. The Chair assesses whether there is a conflict of interest (he may consult the other members of the CRI) and takes the necessary steps, which usually consist in excluding the CRI member likely to be affected by a conflict of interest from the entire procedure of the case. A written record must be made of the actual or potential conflict of interest and the steps that were taken to deal with it.
- 5.8. If the CRI or individual CRI members come under any pressure whatsoever from individuals or institutions involved in a case, they must immediately notify the

Board of LARI, who will take appropriate measures to protect the CRI's reputation and LARI's interests.

## **6. Detection of alleged misconduct**

- 6.1. The CRI may be called upon by any person or organisation with legal capacity which has knowledge of suspected scientific misconduct occurring in one of the institutions defined in art. 2.3. Such inquiries/reports must be submitted in writing to the Secretary-general of LARI, with due indication of the specific facts of the case and the alleged misconduct. The Secretary-general of LARI informs the Chair of the CRI without delay.
- 6.2. The CRI commits to protect the reporting person or organisation (whistle-blower protection). It will, in general, only consider anonymous reports of suspected scientific misconduct if it estimates that there are valid reasons for the reporting person to remain anonymous.
- 6.3. Further, the CRI may also decide to investigate cases of suspected scientific misconduct on their own initiative after informing the management of the institution in question.

## **7. Initial inquiry**

- 7.1. The Chair of the CRI assesses whether the case falls within the scope of the CRI's remit, as defined in articles 2.1., 2.2., and 2.3. To this effect, he may consult the CRI.
- 7.2. The Secretary-general of LARI, in close consultation with the Chair of the CRI, may interact with the person or organization that have reported the case, so as to gather sufficient information to reach a decision on whether the case falls within the scope of the CRI's remit.
- 7.3. If the case falls outside of the scope of the CRI's remit, the person or organization that have reported it will be informed by the Secretary-General of LARI. No further action by the CRI will be taken.

## **8. Launch of a procedure**

- 8.1. On the basis of the available information, the CRI may take the following resolutions:
  - 1) Launch of a procedure by assignment of the case to one CRI member (ideally a member whose area of expertise is most closely related to the case), referred to below as the "member leading the investigation";
  - 2) Non-initiation of a procedure, with appropriate justification (e.g. in cases deemed to be minor); or

- 3) Suspension of the case, for example *e.g.* in cases where administrative, civil or criminal procedures have been initiated.
- 8.2. The CRI may also refuse to handle cases where the alleged misconduct lies more than ten years in the past.
- 8.3. The CRI will communicate its decision
  - to the Board of LARI;
  - to the person or organization that have reported the case;
  - to the person(s) to whom the allegations refer to;
  - to the head(s) of the affected research institutions(s);
  - to the FNR, in cases where the suspected misconduct occurred in relation with an FNR-funded project or researcher.
- 8.4. In exceptional cases, the CRI may consider it a higher priority to protect the person(s) accused, and resolve to not communicate its decision to launch a procedure to all or some of the parties listed in art. 8.3.

## **9. Investigation procedure**

- 9.1. With the administrative support of the Secretary-general of LARI, the CRI member leading the investigation shall first obtain opinions and statements from the persons and/or institutions to which an allegation refers.
- 9.2. The CRI may obtain expert opinions from specialists in the relevant field. These experts can assist in an advisory capacity at meetings of the CRI, if it so requests. They are bound to the same confidentiality rules as CRI members (*cf.* art. 5.5.) and must declare any conflict of interest (*cf.* art. 5.6. and 5.7.).
- 9.3. If a sufficient assessment of the facts is not possible on the basis of the materials submitted, the CRI may request additional statements from involved persons and/or institutions, but also any additional documents and evidence for the good progress of the current investigation. The CRI may also demand a hearing, and/or site visits with interviews.
- 9.4. At any stage of the procedure, the CRI may issue recommendations to the head(s) of the involved institution(s) to take actions that are likely to help in the assessment of the case (*e.g.* repeating measurements or experiments).
- 9.5. At any stage of the procedure, the CRI may issue recommendations to the head(s) of the involved institution(s) to take appropriate protective measures (*e.g.* securing data and notebooks, temporarily banning a researcher under suspicion from accessing certain premises) if there is a risk that data or other evidence may be deleted or if there is a risk of retaliation against others (*e.g.* against subordinates or witnesses).

- 9.6. In case of an FNR-funded project or researcher, the CRI may also, at any stage of the procedure, issue recommendations to the FNR to take appropriate protective measures (e.g. temporary suspension of grant payments).
- 9.7. The CRI may resolve to suspend the case at any stage of this procedure in duly justified cases (e.g. in cases where administrative, civil, or criminal procedures have been initiated).
- 9.8. In general, the CRI should aim at completing an investigation within a timeframe of 4 months.

## **10. Preparation of CRI opinions**

- 10.1. Upon completion of the investigation, the CRI member leading the investigation shall compose a summary opinion which contains an assessment of the results of the investigation. This opinion is to be presented to the other CRI members for approval.
- 10.2. In cases where other members of the CRI disagree with the opinion, it is to be discussed and amended/supplemented as necessary at the next scheduled meeting of the CRI, and the CRI should decide on a final opinion if possible.
- 10.3. Opinions should contain the following information in any case:
  - 1) Summary of investigation results;
  - 2) Assessment of investigation results;
  - 3) Recommended further actions for the parties involved.

The opinions must be unambiguous, stating the gravity of the misconduct and contain proper advice, e.g. on sanctions or on retractions of publications, in order for the sanctions to be fair, proportionate and comparable across similar cases.

- 10.4. When assessing the severity of a case, the CRI will take into consideration
  - whether the involved researchers acted knowingly or intentionally, or whether the conduct was simply reckless;
  - the experience and seniority of the involved researchers;
  - whether the case was an isolated event or part of a continuing or prior pattern of misconduct;
  - whether the misconduct had a significant negative impact on the proposed or conducted research activities of other researchers or institutions;
  - the extent to which involved researchers have accepted responsibility for the misconduct by (1) admitting the conduct, and/or (2) cooperating with the research misconduct proceeding, and/or (3) demonstrating remorse and awareness of the significance and seriousness of the research

misconduct, and/or (4) taking steps to correct or prevent the recurrence of the research misconduct;

- whether the involved researchers retaliated against complainants, witnesses, committee members, or other persons.

10.5. If, in its deliberations, the CRI comes to the conclusion that further investigations would be required in order to come to a final assessment of a case, then the corresponding resolution must also include a description of the additional investigations required as well as a reasonable time period within which the results must be available.

## **11. Decision and Communication to involved parties**

11.1. The CRI's opinion is to be conveyed in any case to the person who or institution which called upon the CRI if that person or institution is directly affected by the allegations submitted, and to the person(s) to whom the allegations referred.

11.2. In addition, the CRI's opinion is to be conveyed to the Board of LARI for information purposes.

11.3. In all cases, opinions are also conveyed to the institution(s) where the misconduct was said to have taken place as well as to the FNR, in cases where the suspected misconduct occurred in relation with an FNR-funded project or researcher.

11.4. The submission of the opinion shall mark the end of the CRI's procedure.

11.5. The CRI may take up again a case that it has already completed if substantial new information or evidence has become available since its completion.