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Preface

In 2007, at the request of the Staff Council, the Executive Board decided to establish the position of staff ombudsman.

The ombudsman is part of the university's social infrastructure. The ombudsman is tasked with supporting individual employees, groups of employees or supervisors in the analysis and resolution of complaints and grievances when consultation proceedings on these issues within the existing organization have either become stagnated or have encountered seemingly insuperable obstacles. The ombudsman acts as a mediator in such matters and does not represent the interests of any one party or act as a referee. In addition, the ombudsman may be approached by employees with complaints about the conduct of a given university body (possibly an administrative body) or about the way that particular employees are performing their duties.

On this basis, the ombudsman's task consists of:

- mediating and re-establishing a dialogue between parties within the appropriate organizational structures, pending the consent of the stakeholders;
- where appropriate, referring the applicant to the appropriate agencies, primarily within VU Amsterdam, but elsewhere if necessary;
- alerting the Executive Board to cases;
- providing statistical information on the extent and purpose to which people make use of the ombudsman's services.

The ombudsman is bound by professional confidentiality. For this and other reasons, the ombudsman enjoys complete independence in the performance of the assigned duties.

Within VU Amsterdam, this position has three main characteristics. First, the ombudsman can be approached by employees for support, as described above, without requiring any formal procedure. Secondly, at his own initiative, the Ombudsman can launch an investigation into broader trends of possible systematic shortcomings in regulations or problematic patterns in the organization. Thirdly, the ombudsman can launch an enquiry at the request of an employee into the behaviour of a body or an (individual) person. The complaints procedure, as described in these regulations, is designed for the last situation. Furthermore, in the last situation, the ombudsman will always search for opportunities to resolve the complaint in the interim. An enquiry may end with a report, which may include associated recommendations. The ombudsman cannot make binding rulings.

Section 1 General

Article 1 Definition of terms

The following definitions are used in these regulations:

- VU Amsterdam: Vrije Universiteit Amsterdam
- ombudsman: an independent officer appointed by the Executive Board who, in response to complaints from employees, carries out an enquiry to determine whether a given university body (possibly an administrative body) or VU employee has exhibited appropriate conduct in a given matter. In this context, the ombudsman will also determine whether a complaint can be resolved by providing the parties in question with advice, referrals or recommendations;
- employees: individuals who under Article 1.1 (f) of the collective labour agreement for Dutch universities are or have been employed by VU Amsterdam or who are undertaking or have otherwise undertaken work for VU Amsterdam;
- notice: notification received by the ombudsman about an occurrence or situation that requires the attention of the ombudsman.
- applicant: an individual submitting a request under Article 5, paragraph 1;
- body: the Executive Board, the faculty board, the dean of a faculty or a portfolio holder within the faculty board, the director of a service department or faculty, or the director of an interfaculty research institute;
- Staff Council: the Staff Council of VU Amsterdam.

Article 2 Ombudsman

1. The ombudsman shall be appointed by the Executive Board for a period of three years. The ombudsman is eligible for re-appointment.
2. Anyone holding the position of ombudsman may not hold any other position, nor be involved in any other activity, within VU Amsterdam, with the exception of the position of student ombudsman.
3. In the performance of the assigned duties, the ombudsman is not subordinate to any given body.
4. The Executive Board shall ensure that the ombudsman will not be adversely affected in any way as a result of acting in this capacity.
5. The Executive Board may relieve the ombudsman of the duties of the position before the termination date of the appointment, either at the incumbent's own request or if the incumbent's actions (or failure to act) seriously undermine the trust placed in that individual.
6. As a rule, a member of the Executive Board will consult with the ombudsman twice each year, or more often as deemed necessary by both parties. The following aspects will be covered in such consultations:
 - every six months, the ombudsman's report on the activities of the preceding period;
 - any systematic deficiencies in the regulations or problematic patterns in the organization, as identified by the ombudsman.
7. The ombudsman shall report serious indications to the Executive Board, as well as to the portfolio holder for staff. The Executive Board shall immediately notify the Faculty Board or the director of a service department of any serious indications, thereby allowing the Board or director to address the identified problem first. If the indication relates to the Executive Board, the ombudsman will address the chair of the Supervisory Board.
8. The Executive Board may appoint a deputy ombudsman. The deputy will take up the appointment at a time to be determined by the Executive Board. The deputy ombudsman will remain in office until the ombudsman is capable of resuming the assigned duties or until a new ombudsman takes office.
9. The Executive Board provides the ombudsman with the resources required for the proper performance of the assigned duties.
10. Every employee may submit a notice to the ombudsman. A request according to Article 5.1 is a specific notification, that must satisfy the requirements specified in Article 6.
11. The ombudsman is responsible for maintaining contact with all employees and students at the university relevant for a notice.

Section 2 Authorities

Article 3 Authorities and tasks of the ombudsman

The ombudsman has the following authorities and tasks:

- Mediating and re-establishing dialogue between parties within the appropriate organizational structures, pending the consent of the stakeholders;
- Where appropriate, referring the applicant to the appropriate agencies, primarily within VU Amsterdam but elsewhere if necessary;
- Alerting the Executive Board to cases as referred to in Article 2 paragraph 6;
- Undertaking enquiries into broader trends as referred to in Article 4;
- Undertaking enquiries into the behaviour of a body or person as referred to in Article 5;
- Providing statistical information on the extent and purpose to which people make use of the ombudsman services, as referred to in article 16.

Article 4 Enquiry into a broader trend

1. At his own initiative or in response to one or more notices, the ombudsman may launch an enquiry into broader trends of possible systematic shortcomings in regulations or problematic patterns in the organization.
2. The ombudsman offers the Executive Board the opportunity to present its view in writing and orally.
3. Articles 10 and 11 apply to the enquiry into a broader trend.
4. Following completion of his enquiry, the ombudsman will draw up a report for the Executive Board in which he presents his findings and judgement. The report will also indicate whether – and if so – what recommendations have been made. The ombudsman will send a copy of the report to the Supervisory Board and the director of HRMAM.

Article 5 Enquiry into the behaviour of a body or person.

1. Any employee (or former employee) is entitled to write to the ombudsman requesting that an enquiry be instigated to examine the way in which the person in question was treated by a particular body or individual in a given situation.
2. In this case, the conduct of a body might involve a given action or a failure to act. It might also involve specific treatment, behaviour or attitudes.
3. The conduct of a person in the exercise of assigned duties, working under the responsibility of a given body, shall be regarded as the conduct of the body in question.
4. If the conduct in question is currently the subject of another complaint, objection or appeal procedure, and if the applicant is making use of that, the applicant shall be obliged to inform the ombudsman of this immediately.

Section 3 Procedure for an enquiry into a body or person

Article 6 Petition

1. The petition must contain at least the following details:
 - a. the name and address of the applicant and the organizational unit in which the applicant is employed;
 - b. the date;
 - c. a description of the conduct to which the petition relates, together with information concerning the identity of the body or individual that exhibited said conduct;
 - d. the reason why the applicant objects to the conduct in question;
 - e. the applicant's signature.
2. The petition is to be drawn up in Dutch or English.
3. The ombudsman shall acknowledge receipt of the petition in writing, normally within seven days.
4. The petition may be revoked at any time, in which case the application of this regulation shall cease and the ombudsman will inform those concerned to this effect.

Article 7 No enquiry

1. The ombudsman shall not be empowered to launch an enquiry as intended in Article 5 if:
 - a. the petition does not meet the requirements specified in Article 6, paragraphs 1 and 2;
 - b. more than one year has elapsed since the conduct which led to the submission of the petition in question occurred;
 - c. the petition is manifestly unfounded;
 - d. in the opinion of the ombudsman, the interests of the applicant or the significance of the conduct in question are clearly relatively petty;
 - e. the applicant is not the individual against whom the conduct in question was directed;
 - f. the situation referred to in the petition is part of VU Amsterdam's general policy or that of the body in question, or if it involves matters relating to legal status or to the application of the collective labour agreement or that of other regulations;
 - g. an appeals procedure (or legal process, complaints procedure or objection procedure) has been instigated (or completed) on behalf of the applicant or under the VU Statutes that has not been used by the applicant or in which a ruling has already been made.
2. If, on the basis of paragraph 1, the ombudsman decides not to launch an enquiry, the ombudsman will notify the applicant in writing—giving reasons for this decision—within 14 days of receiving the petition in question. In this written communication, the ombudsman will make reference to the authority that is competent to deal with this matter, in the event that a procedure as referred to in sub g of that paragraph is in progress.

Article 8 Procedure

When dealing with the complaint in question, and at every stage of a subsequent enquiry as intended in Article 5, the ombudsman will attempt to determine whether there are means by which the complaint could be wholly or partially withdrawn or resolved in some other way, either by means of advice and/or referral or by making recommendations to those involved.

Article 9 Views and statements

1. The ombudsman shall allow the applicant and the body or individual referred to in the petition to state and explain their respective standpoints, verbally or in writing, separately or in one another's presence. The ombudsman will then assess the situation on the basis of this information.
2. If the ombudsman considers it an essential prerequisite to any assessment of the petition in question, the ombudsman can pass on details of the petition to others and request them to make written or verbal statements concerning the matter, with guarantees of strict confidentiality if necessary. Those involved are required to comply with any such requests from the ombudsman within the allotted period of time.
3. Subject to the requirements of paragraph 2, the ombudsman shall see to it that the complainant is sent a copy of a written standpoint as referred to in paragraph 1 or a written statement as referred to in paragraph 2. A report is prepared concerning a verbal standpoint as referred to in paragraph 1 or a verbal statement as referred to in paragraph 2 that, subject to the requirements of paragraph 2, is forwarded to both parties by the ombudsman.

Article 10 Information

1. Within VU Amsterdam, the ombudsman has the authority to request information and to inspect documents that are related to the enquiry. Those involved are required to comply with any such request from the ombudsman (relayed to them by their supervisor) within the allotted period of time. The ombudsman will approach an individual directly for an account and/or information if the enquiry itself—or the requested information—relates to the supervisor of the informant in question. They are not authorized to provide accounts and/or documents that are subject to a confidentiality requirement. The supervisors can decide that any accounts and/or documents that they deem to be subject to confidentiality can be made available to the ombudsman only on condition that the latter is prepared to respect their confidential nature. Access to personal data is possible only with the written consent of the individual involved.
2. The ombudsman shall inform the applicant and the body or individual referred to in the petition, in writing, of a request as referred to in paragraph 1 and the outcome thereof.

Article 11 Experts and review

1. The ombudsman is empowered to engage the services of experts, if deemed necessary for the purposes of the enquiry. Recommendations to stakeholders may involve focusing on achieving a practical solution. Alternatively, they could have a mediating effect or the parties in question could be referred to a mediator, for example, depending on the situation.
2. If deemed necessary for the purposes of the enquiry, the ombudsman may enter all areas in which the body or individual cited in the petition carries out their duties, without having to obtain permission.

Article 12 Assessment

The ombudsman will determine whether the body or individual mentioned in the petition exhibited appropriate conduct in the circumstances that are the subject of the enquiry, unless the ombudsman deems an assessment unnecessary because the complaint was withdrawn after the petition was submitted.

Article 13 Report

1. After concluding the enquiry, the ombudsman shall draw up a report setting out the findings and stating an opinion on the matter in question. In addition, the report shall indicate whether any recommendations are to be made. If so, it will also contain details of the recommendations in question.
2. In either case, the ombudsman shall send copies of this report to the applicant, the body or individual cited in the petition, the Executive Board and the head of the organizational unit in question. If the body referred to in the petition is the Executive Board, the ombudsman will also send his report to the chair of the Supervisory Board.
3. If the report contains one or more recommendations, the body or individual concerned must inform the ombudsman within four weeks of receiving the report whether any action is to be taken in this regard. If so, details must be provided regarding the steps to be taken. Reasons must be given if no action is to be taken in response to a recommendation.
4. The ombudsman shall provide an anonymized copy of the report to the Director of HRM.

Section 4 Other provisions

Article 14 Confidentiality

The ombudsman is obliged to keep confidential any information discovered during the performance of the assigned duties, inasmuch as it derives from the nature of the case in question and is with due regard to Article 10, fifth sentence. This obligation also applies to all those employed by the ombudsman. Any employees involved in the enquiry are also bound by a duty of confidentiality with regard to that which has become known to them by virtue of their involvement in this matter.

Article 15 Objections or appeals

No objections or appeals can be made against the report by the ombudsman within the context of dealing with a petition as referred to in Article 3, paragraph 1.

Article 16 Annual report

The ombudsman shall publish annual reports of all activities performed. These reports will routinely contain details of the number of cases dealt with, together with an anonymized summary of each one. Copies of the report will routinely be sent to the Executive Board, the College of Deans, the Director of HRM and the Staff Council. The report is made generally available.

Article 17 Entry into force and amendment

1. With the agreement of the Staff Council, these regulations may be amended or withdrawn by the Executive Board.
2. These regulations enter into force with effect from XXX 2021.

Explanatory notes

Article 1 Definitions

The contents of this article include a definition of terms including the concept of a 'body'. This includes our university's administrative bodies: the top-level Executive Board and the mid-level Faculty Boards. This concept also includes the supervisors of other large administrative organizational units: the directors of faculties and service departments, and the directors of institutes within VU Amsterdam that are 'in a class of their own' (Centre for International Cooperation, Centre for Educational Training, Assessment and Research [CETAR]). The regulation (see also Article 3) relates to conduct by the said administrative bodies and supervisors, as well as by those who are employed by them (either directly or indirectly).

Article 2 Ombudsman

Paragraphs 2, 3 and 4. The ombudsman has an independent position within VU Amsterdam. Independence is an essential prerequisite for the performance of the duties. Accordingly, those who occupy the position cannot perform any other duties within VU Amsterdam with the exception of Student Ombudsman, nor does a hierarchical relationship exist between the ombudsman and any body or individual. The Executive Board shall ensure that the ombudsman will not be adversely affected in any way as a result of acting in this capacity. This provides an extra guarantee that the ombudsman will be able to operate freely and independently within the organization.

Paragraph 5. The ability of the ombudsman to carry out the assigned duties is closely related to the trust placed in this person. An ombudsman is expected to avoid and refrain from any actions that might erode or seriously damage this trust. If the Executive Board believes that this trust is being/has been seriously damaged, then it can relieve the ombudsman of the assigned duties.

Paragraph 6. The ombudsman shall consult with a member of the Executive Board at least twice per year. There are two objectives to this consultation: first, to discuss the course of affairs and second, to perform the ombudsman's warning function towards the Executive Board.

Paragraph 7. Supplementary to paragraph 6, a further elaboration has been given of how the ombudsman issues an indication. This additional situation covers cases whereby the serious indication relates to the Executive Board.

Paragraph 8. It is recommended that the Executive Board appoint a deputy ombudsman in the event that the ombudsman is not expected to be able to perform the assigned duties for a protracted period of time (e.g. as a result of illness). The formal appointment of a deputy has the advantage that the work of the ombudsman can be continued, while maintaining the fully independent position of that office.

Paragraph 9. The Executive Board shall provide the ombudsman with the resources required for the proper performance of the assigned duties. These include financial resources, equipment and workspace.

Article 3 Authorities and tasks

Notices by employees need not always lead to a formal enquiry. In some cases, employees may prefer a slightly less 'drastic' approach and will submit an informal complaint to the ombudsman either orally or in writing. The ombudsman shall refer such employees to the appropriate bodies, if they have not yet consulted them (local management, personnel consultant, occupational health physician, health and safety consultant or staff welfare officer) and if these are the appropriate bodies for dealing with the complaint in question. If this is not an appropriate course of action, the ombudsman may attempt to resolve the issue quickly and directly, through mediation. This is possible only if all those involved in the matter are in agreement in advance.

In instances where another entity is authorized, mediation and/or advice by the ombudsman are not appropriate.

Cases involving employment law or matters relating to legal status

In cases involving employment law or matters relating to legal status, mediation and/or advice by the ombudsman are not appropriate. The personnel consultant is the designated official in such cases. The personnel consultant may also refer the matter to a mediator. If this mediation is successful, it will not be necessary to launch a formal enquiry into the behaviour of a body or person as referred to in Article 5. It is also conceivable that employees may approach the ombudsman because they require advice on how to resolve a complaint themselves, without involving higher authorities. In such cases, the ombudsman will refrain from further action. In the event of a broader trend of possible systematic shortcomings in regulations or

problematic patterns in the organization, as intended in Article 4, the ombudsman may undertake an enquiry on his own initiative.

Article 4 Enquiry into a broader trend

Paragraph 1. At his own initiative, the ombudsman may launch an enquiry into broader trends of possible systematic shortcomings in regulations or problematic patterns in the organization. In principle, the ombudsman undertakes action in response to a notification. This is another form of enquiry from an enquiry into a body or individual for which a petition is required.

Paragraph 4. Any recommendations fall within the authority and role of the ombudsman.

Article 5 Enquiry into behaviour of a body or individual

Paragraph 1. Each employee of VU Amsterdam is entitled to request the ombudsman to carry out an enquiry on their behalf. This is reflected by the wide range of topics that can be submitted to the ombudsman. This involves conduct 'within a given situation'. This may include issues relating to education, research or facilities, as well as broader issues relating to organizational matters and treatment. The petition—in this explanatory note, the term 'complaint' is also used in this regard—relates to the way in which a body has conducted itself with regard to the individual in question. This covers all actions or omissions. In addition, any failure to act while the situation at hand demands action or any failure to take a decision in response to a petition are also considered to be forms of conduct.

The ombudsman can launch an enquiry only in response to a written petition, the same petition defined under Article 6.

Paragraph 2. The conduct of individual employees can also be submitted to the ombudsman for consideration within the complaints procedure. Such cases relate to conduct exhibited by the employee in question in the performance of the assigned duties. That conduct is regarded as the conduct of the body under whose responsibility the employee is operating. Individuals otherwise undertaking work for VU Amsterdam, for example individuals who are seconded to VU Amsterdam, are also covered by this article.

Article 6 Petition

Paragraph 4. Once submitted, petitions may be withdrawn by applicants for appropriate reasons (e.g. if the body in question has met their objections). This voids the grounds for the ombudsman's enquiry and terminates the application of the regulation. The ombudsman is required to inform the involved parties of this development.

Article 7 No enquiry

Paragraph 1. Provided that all of the conditions have been met, the ombudsman is obliged to comply with a request to launch an enquiry. Paragraph 1 provides for exceptions to this obligation: in the event that the circumstances are the same as those described in that paragraph, the ombudsman may not launch an enquiry.

a. If a petition fails to meet the requirements of Article 6, paragraphs 1 and 2, this shall constitute sufficient reason not to launch an enquiry. This might involve the omission of essential data, such as the name of the applicant or that of the defendant. Anonymous petitions will not be accepted.

b. A 'statute of limitations' must be established, setting out a maximum period of time after the events in question during which a body or individual may be confronted with a complaint about their past conduct. For the purposes described here, a term of one year is considered to be reasonable. If more than one year has elapsed since the incident which gave rise to the petition, the ombudsman will not launch an enquiry.

c. and d. In the situation described in c and d, the ombudsman has no authority to deal with a petition. The provisions address complaints in which it is clear in advance that the applicant has no grounds for complaint. Cases based on petty issues are also covered by these provisions. In addition, applicants requesting an enquiry must have a direct interest in the matter.

e. The rule is that any request for an enquiry must be lodged by the individual against whom the conduct in question was directed. Anyone other than the individual directly concerned is not allowed to submit a petition with regard to the conduct in question. It is worth noting that there are possible exceptions to this rule (e.g. when the applicant is represented by a legal representative or by an individual whom the applicant has specially authorized to act on the applicant's behalf).

f. The ombudsman shall refrain from conducting enquiries into issues relating to general policy. This provision also covers the processing of personal data or matters of privacy in the general sense. The ombudsman plays no part in matters related to general policy. The same applies to matters relating to legal status or to the application of the collective labour agreement.

g. The scope of the ombudsman's work shall be defined by existing procedures for dealing with complaints, objections and appeals (including legal procedures). The regulation is not intended to replace other, existing procedures. Instead it should be seen as a complementary system. In those instances where the employee has the option of instituting proceedings by other means, the ombudsman will refrain from launching an enquiry. The ombudsman shall remain unauthorized even if the employee in question could have made use of another procedure, but did not. As necessary, the ombudsman will consult the petitioner to determine whether he or she has submitted or intends to submit a report, in the framework of the whistleblower's regulations.

Paragraph 2. If the ombudsman is not empowered to launch an enquiry, the latter must notify the applicant (except, of course, in those cases where the name of the applicant is unknown) accordingly as soon as possible. This notification must be in writing, and must specify the associated reasons. If the applicant is entitled to make use of another procedure that has already been initiated, reference must also be made to the competent authority.

Article 9 Views and statements

Paragraph 1. This paragraph gives details of the principle of hearing both sides of the argument. The body or

individual whose conduct is the subject of the petition in question shall be informed about the petition that has been submitted (by sending them a copy of that document) and given the opportunity to state their position. The applicant shall also be given an opportunity to explain this position. Each party shall be given the same opportunity to state and explain any facts and arguments, as they see fit. They can express a preference regarding the way in which this should be done (e.g. orally or in writing, whether the other party should or should not be present). However, it is up to the ombudsman to decide how the principle in question is to be applied. This approach also makes it possible for the complaint to be resolved at an early stage, by means of mediation. Mediation can take place at the request of either one or both of the parties involved, or by means of a proposal put forward by the ombudsman. Recourse to mediation requires the agreement of all the parties involved in the conflict.

Paragraph 2. In the interest of obtaining a thorough assessment of a submitted petition, it may be necessary to inform third parties about the matter and to obtain formal statements from them regarding the complaint in question. They are obliged to cooperate with the enquiry.

Article 10 Information

Paragraph 1. In addition to interviewing third parties, the ombudsman is empowered to approach bodies (including administrative bodies), agencies and individuals within VU Amsterdam, through the relevant supervisor, to request information and access to documents relating to the enquiry. The individuals in question are not necessarily members of staff at the university; some may have been seconded from external organizations. Those involved are required to cooperate in this matter, but the extent of their cooperation may be limited by a duty of confidentiality imposed by third parties or resulting from applicable regulations. It may also be determined that, in view of their nature, certain documents or items of information can only be provided to the ombudsman on the condition that confidentiality is maintained. In connection with the protection of privacy, personal data can be inspected only with the consent of the individual concerned. Such consent must always be obtained in advance, and in writing.

Article 11 Experts and review

Paragraph 1. In order to reach a sound judgment in the matter, it may be necessary to engage the services of an expert. This aspect is regulated by this paragraph.

Paragraph 2. With regard to enquiries into certain types of conduct, it can be instructive to examine at first hand the situation at the place in question. Paragraph 2 sets out the ombudsman's jurisdiction in such matters.

Article 12 Assessment

The ombudsman's enquiry concerns the conduct of the body or individual in question. The enquiry leads to a judgement concerning the propriety or impropriety of the conduct in question, which in turn results in a ruling about whether the complaint is or is not justified.

Article 13 Report

Paragraph 1. After completing the enquiry, the ombudsman prepares a written report. This document represents the result of the enquiry that has been conducted. It contains all of the findings on which the ombudsman's ruling has been based. The ombudsman's ruling may be accompanied by various recommendations on how to rectify the consequences of improper conduct or how to prevent a recurrence of the incident in question.

Paragraph 2. In addition to the applicant, the body or individual cited in the petition also receives a copy of the report. In the event that the enquiry related to a single person (i.e. an individual employee), a copy of the report will also be sent to that individual's immediate supervisor and to the head of the organizational unit in question. A copy of any such report will be sent to the Executive Board. If the report relates to the conduct of the Executive Board, the chair of the Supervisory Board will also receive the report.

Paragraph 3. The ombudsman's judgments ('the rulings') are not legally binding. The same applies to any associated recommendations. Nevertheless, it is reasonable to assume that appropriate action will be taken as a result of these recommendations. This paragraph governs the obligation of those involved to inform the ombudsman concerning the matter in question. Only compelling policy arguments can constitute a valid reason for not following a recommendation.

Article 14 Confidentiality

This article governs the duty of confidentiality as this applies to the ombudsman, as well as to anyone employed by the ombudsman (e.g. in the preparation of the report).

Article 15 Objections and appeals

The ombudsman's independent status means that any decisions made by the ombudsman cannot be contested by means of any of VU Amsterdam's procedures for objections procedures or appeals.

Article 16 Annual report

The ombudsman publishes annual reports concerning all activities performed. Copies of these reports are generally available, at no charge. The Executive Board, the College of Deans (as the principal advisory body on matters pertaining to teaching and research) and the Staff Council each routinely receive a copy.

Contact details for the VU staff ombudsman

The staff ombudsman is Ms E.J. (Lies) Poesiat.

The staff ombudsman may be reached by email at ombudsmanpersoneel@vu.nl.