



Code of Conduct Procedural Rules

Version 1.0

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Table of Contents

1	Purpose and Scope	1
2	Rules of Procedure.....	1
	Art. 1 Application and jurisdiction	1
	Art. 2 Principles of proceedings by the PC.....	2
	Art. 3 Confidentiality and documentation	2
	Art. 4 Commencement of proceedings.....	2
	Art. 5 Mediation attempt.....	3
	Art. 6 Continuation in the event of failed mediation.....	3
	Art. 7 Ruling by the PC.....	4
	Art. 8 Costs.....	4
	Art. 9 Force and effect of PC ruling	5
3	Implementation and Enforcement	5

1 Purpose and Scope

The Procedural Rules define the procedure for the implementation, application and enforcement of the Code of Conduct.

Binding regulations of Swiss federal and cantonal laws have precedence over the Procedural Rules. Agreements and policies of companies or customers have precedence over the Procedural Rules to the extent they are more detailed and specific.

Procedural issues not regulated in these Procedural Rules are complementary regulated by the relevant provisions of the Swiss Civil Procedure Code (SPC).

Male or female terms in this document mean any gender; "FSIE" is gender neutral.

2 Rules of Procedure

Art. 1 Application and jurisdiction

- 1 The Procedural Rules are binding for all FSIE members and for the holders of the IT Expert FSIE Certificate having signed the FSIE Code of Conduct.
- 2 The enforcement of the FSIE Code of Conduct by the Procedural Rules is in the competence of FSIE's Professional Council (PC).
- 3 The PC examines and decides upon issues such as compliance, conflicts, difference of opinion, disputes, infringements of the FSIE Code of Conduct by the holders of the IT Expert FSIE Certificate or in general by any member of FSIE.
- 4 Members of the PC are elected by the FSIE General Assembly. They must be neutral and independent having knowledge about the IT profession and the legal doctrine on sanctions imposed by associations.
- 5 PC Members will recuse themselves as per Articles 47 et seq. SPC in the event of a potential impartiality such as conflict of interest, personal interest in the matter, friendship or enmity with a party.

I agree	city / date: _____	page 1 of 5
	name in block letters: _____	
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Art. 2 Principles of proceedings by the PC

1. The fundamental aim of the PC is to reach an amicable settlement or a fair, objective, equal and practical ruling on the issues submitted.
2. The right to be heard shall be granted to all participating parties in every step of the procedure.
3. The PC recognizes the assertions submitted by either party in a fair, neutral, objective and equal manner.
4. Subject to the foregoing the rulings of the PC shall be based on a free assessment of the evidence taken in the procedure.
5. Communications of the PC with the parties shall be made in writing or by secure e-mail with confirmed receipt.

Art. 3 Confidentiality and documentation

- 1 All meetings and consultations of the PC about matters submitted to its' recognition are confidential.
- 2 The FSIE office archives the documentation on proceedings submitted to the PC during 10 years.
- 3 Information about the procedure shall not be disclosed to third parties except upon a resolution of the FSIE Board based on good and valid reasons documented in writing.
- 4 Documents concerning the procedure may be disclosed upon written request from a duly competent authority.

Art. 4 Commencement of proceedings

1. Proceedings commence with a written and well-founded request or complaint including documentary evidence sent to the office of the FSIE. The office then refers the request to the PC.
2. The request or complaint can be submitted by
 - a. an IT User, IT Contractor or Project Sponsor,
 - b. any member of the FSIE and / or IT Expert FSIE,
 - c. the Board of the FSIE,

I agree	<i>city / date:</i> _____	page 2 of 5
	<i>name in block letters:</i> _____	
	<i>personal signature:</i> _____	

- d. a public regulatory authority.

Art. 5 Mediation attempt

1. The chairman of the PC or its secretary sends a written notice to the defendant of the complaint and calls for submission of a written answer within not less than 30 days.
2. Based on the position taken by the defendant or the joint behaviour of the parties the PC may submit an invitation to the parties to a mediation meeting aimed at an amicable settlement or issue a written proposal for the settlement of the request or complaint.
3. Settlement by mediation will be confirmed by a written deed signed by the president and secretary of the PC and both parties.

Art. 6 Continuation in the event of failed mediation

1. In the event of failed mediation the PC shall continue the procedure.
2. Evidence may be gathered by the PC by way if
 - a. documents submitted by the parties,
 - b. questioning and statement of the parties.
3. The PC can ask for further clarification of the issue, in particular
 - a. testimony by third parties,
 - b. inspection,
 - c. expert opinion.
4. Both parties are obliged to actively participate in the gathering of evidence.
5. Evidence gathered will be documented by written minutes.
6. Upon completion of the gathering of the evidence, the PC makes available all documents for inspection by the parties and asks them for submission of their final remarks.

I agree	<i>city / date:</i> _____	page 3 of 5
	<i>name in block letters:</i> _____	
	<i>personal signature:</i> _____	

Art. 7 Ruling by the PC

- 1 The PC has the authority to
 - a. declare the request or complaint submitted by the plaintiff as unfounded;
 - b. state an infringement of the FSIE Code of Conduct by the defendant;
 - c. issue a formal admonishment or reprimand to the defendant;
 - d. issue an order or instruction for a particular action or omission to the defendant;
 - e. award damages or monetary compensation to the plaintiff;
 - f. suspend or revoke the title "IT Expert FSIE"; born by the defendant;
 - g. propose to the FSIE Board exclusion of the defendant from the FSIE;
 - h. apply to the FSIE Board for a public statement in the event of serious violation of fundamental principles of the FSIE Code of Conduct by an IT Expert FSIE.
- 2 The ruling will be made in writing, signed by the President and the Secretary of the PC and forwarded by registered letter to both parties and the FSIE Board.
- 3 The written ruling of the PC shall consists of
 - a. statement of the facts,
 - b. statement whether or the actual situation or behaviour of the defendant violates the FSIE Code of Conduct,
 - c. the sanctions decided,
 - d. the reasons.
- 4 The PC may decide to publish the ruling with or without naming the IT professional concerned in the official organ of the FSIE as well as inform competent public authorities.

Art. 8 Costs

- 1 Basically the procedure is free of cost. In cases of vexatious or fraudulent proceedings (Art 115 SPC) or occurrence of extraordinary expenses, such as inspection of files or obtaining expert opinion, the PC can decide on the allocation of the procedural costs.
- 2 There is no compensation for the plaintiff or defendant. Third parties can be paid expenses incurred from hearings out of the FSIE's funds.

I agree	<i>city / date:</i> _____	page 4 of 5
	<i>name in block letters:</i> _____	
	<i>personal signature:</i> _____	

Art. 9 Force and effect of PC ruling

- 1 The ruling by the PC is final with the following exceptions:
 - a. Suspension or revocation of title IT Expert FSIE may form an appeal in written and well-reasoned form within 30 days at the Board of FSIE. The Board will decide within a period of 30 days after receiving the appeal. This second decision is final and cannot be a matter of further appeal.
 - b. Exclusion from the FSIE may form an appeal in written and well-reasoned form within 30 days at the Board. The case will be included in the agenda for the next general assembly of FSIE. The excluded member is allowed to present his appeal at this deciding general assembly. The defendant has no vote. The decision of general assembly is final and cannot form a further appeal.
- 2 These Rules of Procedure do not prevent either party from submitting any issue to the examination by a competent Swiss procedural authority.

3 Implementation and Enforcement

The FSIE Procedural Rules described herein is an integral part of the Code of Conduct of the FSIE.

The FSIE Procedural Rules shall imperatively apply to all requests or complaints submitted to the FSIE office.

In case of any ambiguity in respect to the interpretation and application of this Procedural Rules or their potential conflict with other statutory or contractual duties, rules or standards, the chairman of the PC and either party may contact and seek the advice of the FSIE Board.

The general assembly of FSIE accepted this “Code of Conduct – Procedural Rules” on March 9, 2018.

The FSIE Procedural Rules enters into effect immediately. They may from time to time be adapted by the general assembly of FSIE to recognized new statutory regulations, standards, policies or developments in the IT industry or the principles of civil procedure.

I agree	<i>city / date:</i> _____	page 5 of 5
	<i>name in block letters:</i> _____	
	<i>personal signature:</i> _____	