

CASUS WETENSCHAPPELIJKE INTEGRITEIT

2016

Objectivity of the judgement of promotores due to a personal conflict – unjustified

Eindhoven University of Technology

Executive summary

A complaint was filed with the Complaints Committee for Scientific Integrity of the TU/e, in which the first promotor of a PhD project claimed that the second promotor should have stepped down as promotor because of a personal conflict between both promotores. According to the complainant, the mere fact of the conflict was sufficient cause for reasonable doubt of the objectivity of the judgment of the accused, who therefore, by not stepping down, had violated the code of scientific conduct of the TU/e. After reviewing all the evidence and hearing 2 witnesses, the committee concluded that there was no ground for 'reasonable doubt'. In fact, the second promotor had taken ample measures to base the judgment of the manuscript on the judgments of independent experts other than himself, who moreover consistently agreed that the manuscript - also in a revised version - was of insufficient quality to be acceptable as PhD thesis. In conclusion, the complaint is found to be unjustified.

1. Subject of the complaint

Possible violation of article 4 - 4th bullet of the TU/e code of Scientific Conduct, in relation to the scientific judgment of a PhD-thesis manuscript by two promotores who had a conflict.

2. Preliminaries, Timeline

The Complaints Committee for Scientific Integrity (CCSI) has received a complaint on ... 2015. The complaint was submitted by the complainant, a former employee of the TU/e. The complaint, which in fact was a collation of 5 separate complaints in the submitted letter by the complainant, concerned possible violations of the code of scientific integrity by the defendant, employed at the TU/e.

In agreement with the Rules of Procedure, the chair and secretary of the CCSI set up a Review Committee (RC) to handle the complaint. None of the members of the RC are associated with the respective department, and one member - is external to the TU/e.

The RC convened on ... 2015 to discuss the admissibility of the complaint. After careful analysis of the different components of the complaint as it was filed, the RC judged that one complaint was admissible, be it in a restricted formulation.

3. The complaint as deemed admissible by the committee

3.1 Summary of the complaint

The complaint pertains to a situation that arose during the PhD-project of promovendus XX (PhD Student). In this project, the complainant and the defendant were first and second



promotor, respectively, while witness 1 was intended co-promotor. The defense was scheduled for ... 2014. In the months before that, a serious conflict arose between the complainant and the defendant. The employment of the complainant at the university ended in ... 2014.

The complaint, quoted from the original letter of the complainant, was formulated as follows:

'By not excusing himself from PhD Student's doctoral committee in ... 2014 when his conflict with me (PhD Student's first promotor) was intensified, the defendant violated principle 4 of the TU/e Code of Scientific Conduct, which requires that "Academic staff ... avoid situations in which reasonable doubt concerning the objectivity of their scientific judgments may arise".'

The complaint was accompanied by extensive descriptions of the conflict.

In the letter to the complainant, the RC wrote:

'The committee considers that depending on the nature and intensity of the conflict, there may or may not have been a situation in which the judgment of the defendant may have been compromised to a level where one could conclude that a fair judgment of the work of the PhD student had become difficult, which could be seen as a violation of Scientific Integrity. Without any prejudice as to the outcome of the further procedure, the committee therefore deems this complaint in principle admissible.'

3.2 A priori considerations by the committee

The committee had the following a priori considerations concerning this complaint:

- 1) The situation in which first and second promotor do not agree in their judgment of the quality of a manuscript is in itself not uncommon. The 'Regulations governing the conferral of doctor's degrees' foresee this situation and have a chapter 'Regulations on disputes' which specifies how to act in such a case. The committee notes that apparently this procedure was not followed.
- 2) It appears to the RC that there is symmetry in this situation in the sense that if the conflict between two promotores would indeed give rise to reasonable doubt concerning their scientific judgment on either side, then this doubt should inevitably apply to other party too. The RC notes that the complainant explicitly denies the symmetry in the complaint by stating that the defendant had a conflict with him but that he himself did not have a conflict with the defendant. But the RC rejected that argument, as it does not exclude the symmetry argument in any way. Having observed that, the RC also notes that there is only a complaint against the defendant, so the possible violation of the scientific integrity by the complainant is not under investigation.
- 3) The RC, upon analysis of the facts as presented in the complaint, observed that while the interpretation of these facts presented by the complainant, in which the defendant would have violated the scientific integrity, was possibly consistent with those facts, another possible narrative, in which the defendant was fully observant of the Code of scientific conduct, was equally consistent with the facts as presented.



Faced with this situation, the RC concluded that this casus was admissible and the outcome of the investigation was open. Moreover, the RC noted that the casus could have more generic consequences for the application of the article of the Code in question in situations where scientists have a disagreement. In their deliberations, the RC considered e.g. the situation where several 'schools' exist within a field.

- 4) The RC further was very clear on the fact that the conflict itself was outside its remit, and that it would not allow the process to move in a direction where the conflict would become the subject matter. As phrased in the letter to the complainant of ... 2015:

'The committee acknowledges that the conflict in itself may be of relevance to the complaint(s), but insists that the complaints procedure can in no way be seen or used as a means to come to a judgment in this conflict.'

However, the RC notices that the complainant nor the defendant have stated in any paper submitted to the RC or during the hearing that the conflict was in any way connected with the person of the PhD Student and/or his PhD- project.

- 5) The RC further considered that for the outcome of the investigation, it was strictly also not relevant who – in retrospect – had had the better judgment concerning the quality of the manuscript of the PhD Student.
- 6) The RC also considered that there were several aspects of this casus that were of importance to the University, including the questions:
- If the promovendus had received a fair treatment
 - If it had been made sure that the TU/e quality standard of the PhD had not been compromised
 - If it had been made sure that the manuscript was judged fairly and objectively

But strictly speaking, also these in themselves important questions were not relevant to the complaint, which deals only with the precise question if by staying on as promotor, the defendant had brought himself into a situation in which reasonable doubt concerning the objectivity of his scientific judgment might have arisen.

4. Response by the accused

4.1 Summary of the response

The response by the defendant consisted of two separate arguments.

First, he demonstrated with documentation (including the report of a formal progress meeting) and reference to possible witnesses, that his scientific judgment of the work of the PhD Student had not undergone a change going from pre-conflict to post-conflict.

Second, he pointed out that he had sought independent judgments from other specialists – who were in no way associated with the conflict - when it came to the judgment that was crucial for the process of the PhD Student's promotion, which was after the conflict had arisen. In this frame he also pointed to the fact that the external members of the doctoral committee had phrased severe criticism and had not been ready to approve the manuscript as it was.



Further, the defendant pointed to the symmetry of the case, an aspect that the RC also had noted. As part of the underpinning of his arguments, the defendant pointed to the fact - that two papers that were part of the draft thesis that had been sent to the doctoral committee (without prior knowledge of the defendant) and were marked as 'submitted', had in fact already been rejected by the journals with 'devastating' referee reports. - in an effort to guide the PhD Student to a defensible thesis, the department had offered the PhD Student an extension of the contract, during which he would have additional supervision by witness 2 from another Dutch University.

4.2 Consideration by the committee

The RC considered the response by the defendant clear in itself. To form an opinion of the view presented by the defendant, the RC asked for (and received) the referee reports on the draft journal papers that were mentioned and decided to hear two witnesses, witness 1 and witness 2, both of whom had also been suggested as witness by the complainant.

5. Hearing of witnesses

The witnesses were heard by telephone interview. It is important to note that the nature and content of the complaint were not shared with them, nor was it revealed who was the complainant and accused. The interviews were directed at verifying facts, and finding out if the witnesses had experienced any pressure, in any sense, concerning their scientific judgment of the work of the PhD Student.

5.1 Witness 1

The testimony of witness 1 fully supports the narrative as presented by the defendant. He also confirmed that the referee reports had given strong – a posteriori - backing of his own criticism of the chapter of the thesis that had his particular attention.

A statement that drew the attention of the RC was the following:

<begin quote of testimony>

Question: Did you ever feel put under pressure, any way whatsoever, by anyone, regarding your judgment of the scientific quality of the work of the PhD Student?

Yes, witness 1 experienced unusually high pressure to approve the manuscript from the complainant. This pressure was so intense that witness 1 refers to it as 'extraordinary' ('niet normaal'), and the fact that the complainant did apply this pressure as 'not proper among colleagues' ('niet collegiaal').

<end quote>

4.2 Witness 2

The testimony of witness 2 confirms the assertions of the defendant that he had been asked to supervise the writing of a particular chapter of the thesis. This was after the complainant had left the TU/e and he had not had any interaction with the complainant during that time. He had not perceived any pressure by anyone. He had come to the conclusion that PhD Student did not have the scientific quality required to finish the PhD thesis. He was aware of the conflict between the defendant and the complainant, but had made it clear from the start that he wanted to have nothing to do with that.



Directly relevant to this casus, he stated:

<begin quote of testimony>

Did, in your observation, the dispute between the complainant and the defendant ever influence their judgment of the scientific quality of PhD Student's work?

Witness 2 did not have any contact with the complainant in relation to this case, so he can't say. With regard to the defendant, he never noticed any bias in his judgment. Witness 2 specifically states that if he had noticed any such bias, he would surely have taken this up with the defendant.

<end quote>

6. Report of the Hearing

The hearing took place on ... 2016. Participants were the full RC, the defendant, and –by video connection- the complainant.

The chairman opened the meeting by stating that the adherence to the code of scientific integrity is of great importance to the university; that therefore anyone, either in or outside the university, who suspects that the code has been violated has the opportunity to bring this to the attention of the CCSI; that the university appreciates that people make the effort for such complaint and treats them very seriously.

He briefly then explained the role of the CCSI, introduced the members of the RC, explained the procedure, and went on to summarize the complaint as admitted, the response of the accused, the witness reports and other relevant evidence that had been included in the dossier, along the lines of Sec 1 -4 of this report. The outline of the meeting was that both parties were given 5 minutes to add to their initial statements or elucidate parts that needed further explanation for good appreciation by the RC. Followed by a second round of 5 minutes for each party in which they could react to new material brought up in the first round, or to the witness reports. After each round, the RC was given the opportunity to question. After two rounds it would be decided if further rounds were necessary.

The chairman urged the parties not to repeat what was in the documentation but to concentrate on information that was underrepresented, and the response to each other's testimonies as well as those of the witnesses.

In the first instance the complainant summarized his complaint, detailing the nature and chronology of the conflict.

In his first instance, the defendant stated merely that he had little to add to the written documents he has handed in.

In second instance, the complainant went into the testimonies of the witnesses. The testimony of witness 1 he dismissed categorically on the ground that he – the complainant - had personally informed witness 1 of the conflict that had arisen between the defendant and himself, on either ... or ... 2013. According to the complainant witness 1 had on that occasion stated that 'he would be loyal to the defendant'. According to the complainant, the testimony should be seen in this light and should be dismissed. As to the testimony of witness 2, the



complainant stated that he agreed with his assessment of the thesis, but that this was the version of the thesis that witness 2 received in the fall of 2014, which according to the complainant was much worse than the manuscript that was judged of insufficient quality by the defendant in the spring of 2014.

In second instance, the defendant mainly pointed to the fact that witness 2 was only involved with one chapter, that the papers that had been rejected by the referees did correspond essentially to chapters of the thesis. Further, he pointed to the fact that two earlier chapters of the thesis, which were not disputed, had in fact for a large part been written by others than the PhD Student himself, notably by witness 1 and the complainant, respectively. The defendant stated that the PhD Student had agreed to the estimation that of the chapter he had written with witness 1 two-thirds had been written by the latter, while the contribution of the complainant to the other chapter was approximately 50%.

This was disputed by the complainant, who stated that the division was approximately 50/50 in both chapters.

In a third instance, the complainant finally stated that all of this was barely relevant, since the 'mere fact that the defendant stayed on as promotor while having a conflict with the complainant was in itself a violation of the Code.

A further issue that played a role in the discussion was the fact that the complainant and the PhD Student had sent the manuscript to the PhD doctorate committee without prior consent by the second promotor and the co-promotor.

The RC asked the complainant if he was aware of the fact that while this was perhaps not in conflict with the Regulations governing the conferral of doctor's degrees at that time (they have been adapted on this point since then), surely the common rule – if unwritten at the time – at the University was that the draft thesis is only sent to the other members of the doctorate committee after approval by both promotores and the co-promotor. The complainant defended his behavior by pointing out that his act was not in conflict with the regulations and vigorously rejects the notion of 'rules of habit'.

The chair thanked the complainant for bringing the issue up, and all present for the time and effort spent in the frame of this case.

7. Consideration and conclusion

Having considered the complaint and all the supporting evidence for it, the response by the defendant and supporting evidence, having heard the witnesses, and having heard the complainant and the defendant in the joint hearing, the committee has the following considerations:

- the RC does not agree with the argument made by the complainant, namely that *the mere fact* of the existence of the conflict should have been sufficient ground for reasonable doubt of the objectivity of the judgment of the accused, and consequently the need to step down as promotor. Firstly, the 'reasonable doubt' would need to occur before one can speak of a violation of the Code. The RC could well imagine that in such a case the conflicted persons would take measures to ensure that objective scientific judgment was still ensured. So it



really depends on the question if there are grounds for 'reasonable doubt', the mere fact of the conflict is not sufficient.

- In this particular case, the committee did not find any ground for doubt of the scientific judgment of the defendant. Not only was his judgment backed up by all evidence provided, the RC also recognized that he had taken ample action to make ensure that the judgment of the manuscript had a broad basis, through the consultation of external experts.
- The RC noted further that, as far as it could judge, the department had made a large effort, including an extension of the contract and extra and intensive coaching, to guide the PhD Student to promotion.
- The RC further noted that much of the problem that was at the heart of this complaint had to do with managerial issues rather than with scientific integrity. In particular, it appears to the committee that the 'Regulation on disputes' of the 'Regulations governing the conferral of doctor's degrees' could -and perhaps should- have been followed. It appears that the first step of these was undertaken (a meeting of the promotores with the dean had been scheduled) but when that did not lead to an agreement (the meeting was cancelled on request of the defendant), the second step – taking the matter to the Rector - was not taken by the complainant.

8. Conclusion

In conclusion, the RC does not see any reason to doubt the objectivity of the judgment of the defendant concerning the PhD thesis manuscript of the PhD Student. The complaint therefore is found to be unjustified.

Intitial judgement Executive Board

The Executive Board followed the advice of the Committee. The complainant did not agree to the decision of the Executive Board and filed the complaint to LOWI for advise on (date) 2016.

Advies LOWI

Klager heeft zich vervolgens voor advies tot het LOWI gewend. Het LOWI heeft op (date) 2016 advies uitgebracht aan het college van Bestuur.

Het LOWI adviseert de klachtenonderdelen ongegrond te verklaren in plaats van niet-ontvankelijk. Het geanonimiseerde advies van het LOWI is te vinden op [http://www.lowi.nl/nl/Adviezen onder LOWI Advies 2016, nr. 15](http://www.lowi.nl/nl/Adviezen%20onder%20LOWI%20Advies%202016,%20nr.%2015).

Klager heeft vervolgens op (date) 2016 verzocht om herziening van het LOWI-advies van (date) 2016. Op (date) 2016 stelt het LOWI vast dat er geen nieuwe feiten of omstandigheden zijn aangevoerd of gebleken en constateert dat artikel 7.4 van het Reglement LOWI en artikel 9:23, onder i, van de Algemene wet bestuursrecht in de weg staan aan het in behandeling nemen van het verzoek om het advies van (date) 2016 te herzien. Het verzoek is niet-ontvankelijk.

Definitief Oordeel van het College van Bestuur van 22 december 2016

Het college van bestuur heeft het advies van het Landelijk Orgaan Wetenschappelijke Integriteit (LOWI) van 7 december 2016 ontvangen, evenals een beslissing van het LOWI van 20 december 2016 en een e-mail van klager van 8 december 2016 met daarbij een kopie van een brief aan het LOWI.



Klager heeft het LOWI verzocht het college van bestuur te adviseren de procedure te heropenen. Het LOWI heeft dit verzoek van klager bij beslissing van (date) 2016 niet-ontvankelijk verklaard. Ook het college van bestuur ziet geen aanleiding om het onderzoek te heropenen.

Conform het advies van het LOWI heeft het college van bestuur besloten om ook de onderdelen 2, 3 en 5 van de klacht van klager ontvankelijk, maar ongegrond te verklaren op de in het advies van het LOWI opgenomen gronden. Daarnaast heeft het college van bestuur besloten om ook onderdeel 1 van de klacht van klager ongegrond te verklaren op de in het advies van het LOWI opgenomen gronden.

Hiermee is aan deze klachtprocedure een einde gekomen.