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THE NETHERLANDS

CASUS WETENSCHAPPELIJKE INTEGRITEIT

2017

Plagiaat - ongegrond

Radboud Universiteit

1. **Onderwerp van de klacht**
   Vermoeden van plagiaat in drie grant proposals.

2. **Advies van de Commissie Wetenschappelijke Integriteit aan het College van Bestuur**

1. The complaint

The complaint concerns three grant proposals, two by Defendant 1 as primary applicant and one by Defendant 2 as primary applicant, all three submitted in the second half of 2016. Complainant 1 has observed a large overlap with his own 2015 application and the ideas in it and he is of the opinion that plagiarism plays a role in the three grant proposals. His contribution has not been acknowledged either. All of this constitutes a breach of scientific integrity.

2. The proceedings

The committee received the complaint, together with eight appendices, here together attached as appendix 1, on 20 January 2017. The committee informed both complainants and the relevant deans about the complaint on 6 February 2017. The committee first considered the admissibility of the complaint and concluded that the complaint was admissible and that it qualified for a decision to be made on the substance of the case. All parties involved were informed about this on 31 March 2017 and both complainants and defendants were invited to a hearing on 13 April 2017. The defendants were requested to respond to the complaint in writing, prior to the hearing. Both defendants applied for postponement of the hearing because the time set for their response was too short in their opinion. The committee decided, however, not to cancel the scheduled hearing because both defendants had been aware of the complaint and its substance since the beginning of February. Defendant 1's response – a defence and 26 appendices, attached to this report together as appendix 2 – was received by email on 11 April 2017; Defendant 2's response, attached as appendix 3, was received on 12 April 2017. Both responses were forwarded to the complainants on 12 April 2017.

Complainant 1 formulated a first response to both defences, which response the committee received just before the hearing. Therefore, this response was not forwarded to the defendants prior to the hearing. During the hearing it was agreed that the complainants could submit supplementary documents ultimately until 28 April 2017, after which date the defendants could submit supplementary defence documents ultimately until 12 May 2017. The report of the hearing is attached as appendix 4.

All documents were submitted as agreed upon. Complainant 1 submitted once again his first response to the defence, together with 28 appendices, together attached as appendix 5, on 25 April 2017. Defendant 1 and Defendant 2 each responded on 11 respectively on 12 May 2017, which responses have been attached as appendices 6 and 7. The committee sent all documents to the relevant parties, asked two additional questions (appendices 8 and 9) to Defendant 1 and Defendant 2 and then considered the substance or the complaint.

3. Reason for the complaint and the positions of parties; briefly and concisely summarised

From March 2012 to March 2016 Complainant 1 worked as a post-doc, and before that as a PhD student in Defendant 1's lab. He states that, in that period, he set up a new line of research, which addresses the role of [….]. He worked on this study together with a number of others, amongst whom professor [….]. The latter co-financed the study whereas Defendant 1 was his mentor. Complainant 1 collected material in Nijmegen and used this for research in [….]. The data that were generated in this way were later used as preliminary data in an application Complainant 1 filed in January 2015. The application was granted in July 2015; the research project was then started up in March 2016. Complainant 1 no longer works in Defendant 1's research group, he now works for the [….] group.

A short time ago, he saw three grant proposals, submitted between June 2016 and November 2016, which showed a large overlap with his application. The following proposals are concerned:

1. *[….]* submitted at [….], by Defendant 1.
2. *[….]* submitted at [….] by Defendant 1.
3. *[….]* submitted by Defendant 2 for the [….].

None of these proposals turned out to be eligible for a grant.

<u>Complainant 1's position</u>
Complainant 1 observes a large overlap both between the proposals and his application and between the proposals and a [….] application submitted previously. The [….] application was turned down. Defendant 1 reformulated it into the proposal mentioned above and submitted it again at [….], without any reference to his contribution, without including his name as co-applicant and without informing him about the proposal. He observes a significant overlap in the research subject and the relevant approach, in specific scientific questions and methodological details, in a number of identical or almost identical tables and texts and in data and hypotheses partly generated by him. The same applies for the other two proposals. Moreover, a number of proposed experiments has already been carried out by Complainant 1 in the context of his research. Complainant 1 is of the opinion that this constitutes plagiarism or alternatively that he has been deprived of deserved acknowledgement.

He worked very hard, both for his application and in the lab. He states that Defendant 1 failed to supervise him properly and that he developed his line of research mainly under the supervision of others. Being the most experienced person in the lab, apart from Defendant 1, he was given a large number of responsibilities,

which eventually resulted in him suffering a burn-out. He states that the proposals in question include both hypotheses developed by him and his original ideas; he drafted the line of research, and his dissertation includes four complete publications on this subject – referring to himself as primary author. The expert comments on his application stated, amongst other things, that his was a new and innovative idea. The preliminary data were produced during his stay in [….] – this is also where he wrote most of the application. Defendant 1's position that he and others had been working on this subject does not make sense. Although the subject does bear a relation to other work carried out by Defendant 1, it is fundamentally different at the same time.

Defendant 1 did give him feedback during the development of his proposals and brainstormed with him on the proposals, but that does not mean he can now claim it as his own work. Many others provided him with feedback when he was working on the application. It is not fair that Defendant 1 has now processed these data in a proposal in which he was not involved and in which his name is not mentioned. If he has to compete with him in this field, this will mean, with a view to his standing as a scientist, that he will not be eligible for any grants anymore.

In contrast to what the defendants argue, it is not correct that he withdrew from the {….} team. He did not want to pursue the application on this subject after his application had been granted because this could have meant that the team would be asking for double funding. His suggestion to Defendant 2 that another proposal should be drafted remained unanswered and his name was removed from the [….] application. His contributions to it were not removed, however.

With respect to the third proposal, he states that Defendant 2 did receive his application and that he did read it – it is unfortunate, therefore, that he failed to notice the similarities between the proposal and the application. His contributions are indeed referred to, but it is not made clear in the proposal that his hypothesis was taken as a starting point.

Complainant 2's position

Complainant 2 states that he has become involved in this case after it appeared during an annual appraisal interview, that Defendant 1, who earlier had been criticised for having failed to obtain sufficient research financing, had submitted four proposals all of a sudden. When he had a look at them, he realised that three of these proposals showed a major overlap with Complainant 1's application. He is of the opinion that the question does not so much concern who came up with the original ideas, but rather the circumstance that the defendants seem to have used the application as the source for their own proposals, in the sense that they adapted this application in a number of respects and then submitted the adapted proposals under their own names. He supports Complainant 1 in his complaint because he is the weaker party in this dispute and the department's integrity is essential to him.

Defendant 1's position

Defendant 1 observes that he started research, as early as 2005 and together with others, into the role of [….]. Complainant 1 joined the research team of the University [….] as PhD candidate and started work on this line of research after he had previously worked in a non-related field somewhere else. The experiments set up for this line of research formed the basis for his dissertation, for which Defendant 1

was first supervisor. It is correct that Complainant 1 introduced [….] as a technique to the group, but the work is intrinsically linked to the previously mentioned line of research. When Defendant 1 went to [….], he took Complainant 1 with him to Nijmegen as a post-doctoral researcher and there he was to continue the research into [….]. [….] as a technique, moreover, had not been developed by Complainant 1 himself; it is a very general technique that is used both in a large number of labs elsewhere and by others in the department's lab. The idea that [….] is not new either. Defendant 1 has been involved in such experiments since 2010. His contributions to his research are not referred to in his complaint, although he was closely involved – as project leader - in that research and although he is senior author in the finished article on the subject. This article is waiting for publication. It was agreed upon between parties, on Complainant 1's intercession, that all obligations with respect to the completion of the research were to be Defendant 1's responsibility after Complainant 1 had left the group. Complainant 1 cannot claim any scientific property rights in this field.

Where the third proposal is concerned, Defendant 1 remarks that although the effects of [….] is a common factor, this proposal studies completely different mechanisms. Part of the text was written by him. He argues that this research idea came up in cooperation with professor [….]. On the one hand it is based on Defendant 2's work and on the other on [….]'s work. Therefore, it differs in various – and important – aspects from the application. The statement that a number of experiments had already been carried out is correct, since these were part of the research started in 2012; however, these experiments were not financed by the application , but by Defendant 1 and a third party. Moreover, they had been all but completed in 2016. The experiment included in 'aim 3' of the application was specifically included there on Defendant 1's proposal.

With respect to the application, Defendant 1 states that this is directly based on the experiments referred to before and closely connected to the key questions in his research. He has been working on this subject since [….] the research of [….] been his field of research for [….]. Right from the beginning, he was closely involved in the application specifically, in writing the first abstract and the application itself; he formulated answers to questions and he helped practising the presentation. In this way he supervised Complainant 1 when he was preparing the application.

As far as the proposals are concerned, he states that these proposals are meant to study completely different mechanisms and effects. The line of research into [….] was started up by him before Complainant 1 became member of the group and he also worked on the subject after his arrival. The proposals were partly prompted by his and Complainant 1's research and partly by other research carried out with other parties.

<u>Defendant 2' position</u>

Defendant 2 states that he happened to discuss the [….] with Defendant 1 in October 2014. This led to a concrete idea for research in this field; Defendant 1 insisted that Complainant 1 should be asked to participate in the research. A first application was submitted to [….] in 2015. This application, to which Complainant 1 had contributed, was denied, but further possibilities were explored. In July 2015 Complainant 1 was awarded his subsidy. In August Complainant 1 indicated that from then on he

considered this subject to be his subject and he no longer wanted Defendant 1 to work on this subject in the project group. This was not acceptable to other researchers in the team; Defendant 1 was seen as the leader of the project because of his expertise and wide experience. Complainant 1 was insistent, both in a conversation on the telephone and in a personal conversation. He confirmed the assumption that it could be correctly concluded that he no longer wanted to be involved in any grant proposals.

The following [….] application and the internal applications referred to under point 3 above are proposals that elaborated the previous [….] application in more detail; the project group members were of the opinion that as a project group they could submit the previously submitted proposal in an edited form, also without Complainant 1's participation. The subject cannot be claimed by him and plagiarism in the context of this application is out of the question. He himself withdrew from the application; this did not mean, however, that no reference was made to his contributions and his name was also mentioned, where relevant, in the new application.

One of the figures used can also be found in the application. However, the source has been referred to and, moreover, Defendant 1 also had rights to this figure.

There may very well be parallels with the application, but there are fundamental differences too, amongst other things where [….] are concerned. Furthermore, professor [….]'s hypothesis about [….] is the key element – which also constitutes a fundamental difference compared to the application.

Furthermore, Defendant 2 observes a textual overlap with respect to the specific aims between those in the application and those in the internal application. The relevant paragraphs were provided by Defendant 1 himself. Defendant 2 did not have the application at his disposal when writing the text, but he had read the application about a year before that. The aims of the internal application, however, also differ essentially from the application's aims. Because of these differences, or, as the case may be, because complementary research is concerned, one cannot say the application constitutes a grant proposal that might lead to double funding.

4. Findings of the committee

The committee will have to form an opinion, in the present case, on the question whether the overlap observed between the application on the one hand and the three grant proposals referred to above on the other hand should be qualified as a breach of scientific integrity.

For the assessment of that question, the committee will restrict itself to the main issues. Parties, more in particular Defendant 1 and Complainant 1, have both raised various points of discussion and have supported these with detailed documentation, amongst others with regard to the exact time frame of the activities performed by each of them on this or a similar subject and the location where these activities took place, the extent of supervision and support, the question whether experiments were unjustifiably repeated, the financing of the relevant activities, the novelty of the subject and the extent to which the other party contributed to the subject.

The committee is of the opinion, however, that these issues are not relevant for the question whether the present case constitutes a breach of scientific integrity. There is

no legal basis for the argument that an employee can derive (exclusive) rights from ideas contributed by that employee to a line of research – regardless the question whether this plays a role in the present case – even if this leads to a grant. This because an employee, as in the present case, works in a team, under supervision, in a larger context in which (similar) research is being carried out and, besides, in paid employment. Even if this employee should prove he or he is the original inventor of the idea, this does not result in any scientific property rights to a (part of a) specific field of research. It is part and parcel of science that scientists build on each other's ideas and there is no reason to suppose either that Defendant 1 and Defendant 2 should need Complainant 1's consent to carry out further research on a subject that was developed in Defendant 1's group or that they would only be allowed to continue their research on this subject for the time that Complainant 1 was a member of the research team.

The committee wonders whether it would be effective and/or desirable – had the proposals resulted in a grant – that several departments of the university would be working on a similar type of research; however, this is outside the scope of the Regulations.

In their response dated 25 April 2017, Complainant 2 and Complainant 1 place the dispute in an intellectual property context, amongst other things with respect to the overall research theme, specific research questions and methodology, concluding that the intellectual property rights would rest with Complainant 1. The committee points out that disputes on the resolution of intellectual property issues are outside the scope of the Regulations. Therefore and without prejudice to the above, the committee will not take this point into consideration.

The committee agrees with Complainant 2's remark when he stated during the hearing that the dispute does not so much concern the question who can claim which subject or field or research as it addresses the question whether it is a matter of plagiarism should it be demonstrated that the relevant grant proposals show a certain degree of overlap with the application.

It is clear there is a certain overlap between the relevant applications. As it was concluded above, the use of ideas for particular lines of research or the use or partial use of the same targets is in itself not sufficient to constitute plagiarism. To prove that plagiarism has taken place, it should have been demonstrated that Complainant 1 prepared, wrote and defended his application fully independently and that Defendant 1 did not play any role in preparing, writing and/or defending the application, or only a minor role, and that texts have been used which one did not contribute to oneself; only this would have justified the conclusion that someone has been adorning himself with borrowed plumes. The committee finds that this is not, or not sufficiently, demonstrated.

The application was filed by Complainant 1 and awarded to him, but it cannot be stated that Defendant 1 was not involved in the application. An [….] application is filed by an individual. The relevant documents (attached as appendices) show, however, that a number of other people were involved, including Defendant 1. In that context, an application for a grant cannot be compared with, for example, a scientific article. Where contributions of others to a publication – an article in this example – would result in co-authorship or an acknowledgement of the contributions

by someone else, the application format does not provide for such possibilities. This does not necessarily mean, therefore, that all the work performed for the application or even the text or parts of the text written for the application, has actually been done or have actually been written by the applicant. This also applies, in fact, for the other proposals under discussion. In the present case Defendant 1 argues that the application is partly based on experiments that had been carried out before and that it is closely connected with key questions in his own research. Furthermore, in the three proposals subject to the complaint, reference is also made to a number of publications by Complainant 1.

With respect to the third proposal, it was argued that this contains elements from a previous [….]application, which came about with Complainant 1's cooperation but which was denied. Defendant 2 mentioned that the project group who worked on the proposal after Complainant 1 had left the group did not see any reason why they should not to be allowed to work out the previous proposal in further detail, using the contributions that had already been made; moreover, reference is made to the application Complainant 1 had been working on but which had not been granted. The committee concurs with this argument.

The committee finds that the documents submitted do not suffice to demonstrate that Defendant 1 and Defendant 2 have tried to adorn themselves with plumes borrowed from Complainant 1 and that they have breached scientific integrity by submitting these grant proposals.

Specific paragraphs of the proposals, however, exhibit similarities with paragraphs in the application. This raises the question whether it is appropriate to copy-paste parts from other proposals when writing a new grant proposal. The pressure that might have been felt by Defendant 1 to obtain more research financing and to submit more proposals, might have been the cause of this. However, this would merely lead to the conclusion that, in the present case, science has not been practised in the best possible way – but the course of affairs outlined proves in itself insufficient to qualify as a breach of scientific integrity.

It should be noted, perhaps superfluously, that the committee also understands from all of this that actually a conflict obviously seems to have arisen from relations previously gone wrong. It is clear that certain tensions and specific sensitivities have played a role, especially in the relation between Complainant 1 and Defendant 1. Complainant 1 has a difficult position in this dispute since he was employed, until recently, as a member of staff in Defendant 1's group and was, therefore, in a subordinate position. Complainant 1 has the palpable need, also as a result of relations gone wrong, to further develop independently from Defendant 1. As the committee understands, this was why it was decided, amongst other things, to unbundle and separate their lines of research. As a result of the new proposals, the lines of research would either be joined again or two different groups at […] would be working on the same subject – both situations are deemed undesirable. In that context, the committee understands that Complainant 2's supports Complainant 1 in this dispute. Defendant 1's reaction to this is enclosed as appendix 11.

Complainant 1 has stated that he was offended because both defendants had submitted grant proposals which specifically addressed the field of research he has specialised in and in which he has worked very hard, to such extent that even his health was affected. In the meantime, he has no longer been involved in these proposals. He is of the opinion his contributions are not sufficiently acknowledged and he now observes that his grant – his most important result so far – is built on by others. Furthermore, he has stated that it will be quite difficult for him to compete with Defendant 1 for grants in this field, with a view to his standing as a scientist. It seems to the committee that this touches upon the essence of the conflict and has resulted in the dispute that was submitted in the form of a complaint about scientific integrity.

Although it cannot be said that the applicants who submitted the grant proposals have acted ultra vires in the formal sense of the word, the committee does consider it plausible that especially Defendant 1 could have considered that applying for a grant for this subject would be a very sensitive issue where Complainant 1 is concerned. The committee notes that Defendant 1 has commented on this presumption. His comments are found in appendix 11. The committee regrets that this conflict could apparently not be resolved in any other way than by filing a complaint about scientific integrity.

5. The committee's findings and recommendations

With due consideration for the above, the committee recommends the Executive Board that it should declare the complaint to be unfounded. Apart from that, the committee considers it is advisable that new arrangements should be made with the parties involved concerning the field of research and that it should be made clear what the consequences are if commitment to such arrangements should not be honoured.

3. **Oordeel van het College van Bestuur**

Het college heeft het advies van de commissie overgenomen en op 6 november 2017 besloten de klacht ongegrond te verklaren.
Geen van de partijen heeft het LOWI verzocht advies uit te brengen over het oordeel van het College van Bestuur.