

## Case of Research Integrity

2021

### Appropriation of scientific inventions and project buy off - unfounded

Erasmus University Rotterdam

#### 1 Subject of the complaint

The unauthorized appropriation of scientific inventions and the attempt to buy off the research project

#### 2 Description of facts

##### 2.1 Remit

The Executive Board of the [institution], decided to establish a [Committee] with effect from [date]. The Committee was established to investigate a complaint regarding possible violation of research integrity by Defendants 1 and 2, both working at the [department].

The complaint, submitted by [Complainant], visiting researcher and PhD candidate, was submitted to [institutions] Legal Protection Facility on [date]. The Legal Protection Facility has forwarded the report to the Dean of [institution]. The Committee was established to follow up on the notification by e-mail of a possible violation of scientific integrity in the period [years]. The complaints from this period were assessed on the basis of the then applicable 2014 Netherlands Code of Conduct for Academic Practice and relate to:

- The unauthorized appropriation of scientific inventions
- Attempt to buy off the research project

The Committee was requested to investigate the complaints referred to above and to assess the extent to which there is a violation of scientific integrity.

##### 2.2 Background and complaint

On [date], the Dean of [institution] received a notification from [institution] regarding a request for help with the completion of a PhD program with accompanying documents. Because a possible violation of scientific integrity was reported here, the Dean requested advice from the Confidential Counselor for Research Integrity on [date] and received it on [date]. Additional information was requested from the archives of the secretary for Research Integrity and received on [date]. Advice was again requested by the Dean, this time for legal affairs, on [date] and received on [date]. Due to the nature of the notification, a mediation process on part of the notification (not taken into account here) was first deployed. On [date], the department concerned indicated that mediation was of no use. On [date], the Complainant submitted the report as an official complaint to the secretary for Research Integrity. Ultimately, on [date], the complaint was declared admissible by the Committee and instituted by the Executive Board.

## 2.3 Procedure

The Committee has worked in accordance with the [institution]'s Complaints Procedure of March 2018. The applicable code of conduct for the investigated research period is the Dutch Code of Conduct for Academic Practice (until October 2018). The Committee met on [date], at which it was decided to deal with the complaint in writing as much as possible due to the Covid situation. At the request of the Complainant, the interview with the Complainant did take place physically on [date]. A written summary of this interview was prepared by the Committee, with the idea of giving the Defendants the opportunity to provide a written response to this. The summary was submitted to the Complainant for approval on [date]. The Complainant indicated on [date] that there were inaccuracies in this summary and provided a written supplement to the summary on [date]. This summary, together with additional questions from the Committee, was submitted to the Defendants on [date]. The Committee also asked the Defendants to provide insight into the communication that has taken place on the subject of the complaint and what possible expectations may or may not be made in this regard. This response was received on [date]. On [date], the Committee met again to discuss the response received.

A draft version of the report was submitted to the Complainant and the Defendants with the request to respond to any factual inaccuracies. The answers of both have been added as an appendix to this report.

## 2.4 The Complainant's position, in summary

The Complainant alleges that Defendant 2 appropriated his scientific discoveries without his consent. This happened in the period [years].

The Complainant states that he started working at the [department] in [year] with the help of a personal grant from [company]. He had a hard time in The Netherlands. His English was not good, he was a [job qualification] with [...] training only, and he was largely unfamiliar with scientific research. In [month, year] it was decided that he would make the switch to [department of Defendants]. However, this was fundamental research and it took him the first year to study literature and learn techniques. He feels that he has not been helped by the department or colleagues.

Defendant 2 was his supervisor and had asked him to conduct two important experiments with [technique] in his second year. The Complainant says that Defendant 2 said that the experiments were difficult, but that if successful, the results would lead to publications with impact, and the Complainant could obtain a doctorate on this. He worked hard during that period, up to 70 hours a week, and achieved good results, according to the Complainant. These results included the finding that there was interaction between [...] and [...]. The Complainant states that he discussed this finding with Defendant 2 because it could provide many new possibilities for research. He states that during that period he optimized the protocol for these experiments. However, Defendants 1 and 2 have taken over all paper lab journals (five items) and digital lab journals, thereby unauthorized copying his discoveries. The Complainant says that they told him that his results were not reproducible, but he wrote everything down neatly. He just cannot show that to the Committee because the Defendants have confiscated his lab journals. He does not understand why the Defendants say that his work is not properly documented.

The Complainant states that the Defendants wrote an article based on his data, he does not know exactly which one. It was together with [a foreign] research team. He says that Defendant 2 also wrote a grant proposal and that it was honored. He does not know which grant.

The Complainant alleges that the behavior of Defendant 2 suddenly changed. At first, he was enthusiastic about the results, but suddenly the Complainant could not do any good anymore. Working [...] was no fun, according to Complainant. The data had to be generated under pressure. However, he did not have a

workplace in a room, only in the lab. He has asked for a place in a room, but this has been refused. The Complainant alleges that Defendants 1 and 2 insulted, threatened and blackmailed him via the work email. As proof of this, he has a number of printed versions of the relevant emails for the Committee. The Complainant states that because he currently no longer has access to his work email, he can no longer show this, but he expects the Committee to be able to access it.

The Complainant alleges that Defendants 1 (his supervisor at the time) and Defendant 2 (supervisor) tried to persuade him to accept an amount of [amount] as compensation, on the condition that he would then forgo his doctorate for good. The Complainant states that the confidential counselor of the department can confirm this and insisted that this offer be accepted. The Complainant considers this an attempt at bribery and an insult, especially the addition that he would then never be allowed to take a doctorate. That's not a negotiation. He never wants to give up his dream of becoming a researcher and getting a PhD.

The Complainant argues that after he refused this, his hospitality agreement was unlawfully terminated, as was his Dutch residence permit. The Complainant submits e-mails that he believes provide evidence of this.

## *2.5 Defendants' position, summarized*

Defendants say there is no question of appropriating scientific discoveries for multiple reasons. In the first place, they state that all results within this study are the property of the department [institution], and not of the person who performed the experiments. Second, there is no scientific discovery or optimized protocol at all. If the results concerned had been part of a publication, the Complainant would have received credit for this in the form of authorship. Unfortunately, the Complainant's results were of insufficient quality or not sufficiently documented. For this reason, the results will not be used for peer-reviewed manuscripts, which means that the Complainant cannot obtain authorship. Defendants argue that the experiments showed no interaction at all between [...] and [...]. Thus, this could never have been the subject of discussion between the Complainant and the Defendant 2. The data was also never used for a grant application.

The Defendants reject the allegation that they insulted, threatened and blackmailed the Complainant. They are of the opinion that this is also not apparent from the documents provided by the Complainant.

The Defendants are of the opinion that the Complainant does not properly represent dates and events. To this end, they provide access to a document that was already drawn up in [year] at the time these events took place. On [date], the Complainant was informed that he could no longer be a PhD student in the lab of Defendant 2. He was still allowed to work as a visiting researcher, as long as he no longer pursued a PhD. In [month, year] it became clear that the Complainant still wanted this. The Complainant told Defendant 2 that he would have to repay his fellowship if he did not graduate.

The financial compensation was offered in [month, year] and is therefore separate from his doctorate. The Complainant was no longer a PhD student at that time, so the alleged condition to give up his PhD forever to receive the compensation was never given. The compensation was, moreover, intended to help the Complainant. Defendants have offered the money to compensate for 1.5 years (the time the Complainant has spent in the lab) with the amount associated with his fellowship each month [amount], so that would work out to about [amount]. An amount of [amount], as the Complainant alleges, was not offered.

The Complainant was asked to write down all the details of his experiment, and to transfer all reagents and lab journals and computer files. He could then become a co-author on one article on the [...] interactions to which he had contributed. However, according to the Defendants, he did not make this transfer.

Defendants say that the claim that the hospitality agreement was unlawfully terminated is false, as such an agreement can be stopped by a department head at his discretion. The decision to discontinue the hospitality agreement was the result of the Complainant taking no action to hand over his belongings. The defendants also indicate that they have no control over the residence permit that the Complainant has.

## 3 Findings, considerations and advice of the Research Integrity Committee

### 3.1 *The unauthorized appropriation of scientific inventions*

The Complainant states that he has made important optimizations to a protocol, which have resulted in the discovery of new [...] interactions. However, according to the Complainant, these findings were wrongly not attributed to him by the Defendants, but were used for publications and/or grant applications. The Defendants dispute this allegation, claiming that the research was not well documented and therefore unusable. There are therefore no publications or grant applications in which this data has been used.

The Committee has not received any e-mail or documentation from the Complainant to substantiate his complaint. The complainant cannot show his claimed 'optimized protocol'. During the interview it appears that the Complainant is also not sure whether there are any publications or a grant application, he only suspects this.

Defendants show a copy of an email exchange from [month, year] showing that Complainant persists in his claim that all details can be found in his lab journal, where Defendants continue to insist that this is not sufficiently detailed to be useful.

In the Committee's view, it appears from the foregoing that the Complainant has not been able to demonstrate that the data generated by him has indeed been used unlawfully. The Committee considers the documentation submitted by the Defendants to be sufficiently convincing to conclude that the Defendants rightly doubted the quality and reliability of the work performed by the Complainant. The Committee therefore considers this part of the complaint to be unfounded.

With regard to threats, insults and blackmail, the Committee notes that it understands to a certain extent that a somewhat informal form of communication such as email more easily leads to statements that are more colored by the circumstances at the time. However, the tone of some of these emails could, in the opinion of the Committee, be interpreted by the recipient as threatening. However, this does not lead to the conclusion that this is a violation of research integrity. The Committee notes that the Complainant himself has used similar language in email exchanges.

### 3.2 *Attempting to buy off the research trajectory*

The Complainant argues that the amount offered was a lump sum, subject to the condition that he then had to refrain from obtaining a doctorate degree for good. As proof, he sends a word document dated [date] from [legal advisor], containing a proposal for compensation for the damage suffered by the Complainant. This document does not mention an amount for the damages claimed, but an amount of [amount] which would have been offered by the department to mitigate his damages if he returned without a doctorate degree. However, this letter has not been signed.

Defendants argue that the offer of compensation was separate from his PhD trajectory (he was no longer a PhD student by then) and was made only because the Complainant claimed to incur significant financial loss without obtaining a doctorate degree. In an e-mail dated [date] supplied by the Defendants, the Complainant himself states that his damage suffered is [amount], where the department has "only" offered

him approximately [amount]. In a report of the events in [year], the Defendants show that in addition to financial compensation, further assistance has been offered by discussing with him how he can cope with his problems after his departure.

It appears from the foregoing, in the Committee's opinion, that the Defendants did not attempt to buy off the Complainant's PhD trajectory with their offer. Although unusual, in the Committee's view this offer was actually compensation for the damage suffered, without any obligation or necessity to do so. The Committee therefore also considers this part of the complaint to be unfounded.

### **3.3 The Committee's other considerations**

The Committee doubted whether this complaint should be dealt with by a Research Integrity Committee. It was clear from the start that this was a seriously disturbed relationship. The Complainant initially asked for help in completing his PhD trajectory. After his request for help was not heard in his eyes, he eventually filed a complaint about those people who, in his eyes, have slowed down, disrupted and thwarted his PhD trajectory.

It should be noted here that the Complainant also filed a complaint in [year], and submitted it to the Central Complaints and Objections Committee of [institution]. However, this complaint was not taken into consideration at the time by this committee, because the Complainant could not be regarded as an employee of [institution]. They concluded that a hospitality agreement cannot be equated with an employment agreement.

The Committee has formed an opinion based on the facts and views of the parties. The Committee has compared the facts on which the Complainant and Defendants agree and their positions on which they differ with the then-current Code of Conduct. The Committee is of the opinion that the Defendants have acted with sufficient care towards the Complainant and have provided him with extraordinary opportunities. In the opinion of the Committee, the Defendants have sufficiently substantiated that there was no misappropriation of data or inventions or attempted bribery.

The Committee is of the opinion that the Defendants in [year] may have caused problems by giving the Complainant so many opportunities, while the documentation shows that the Defendants themselves believed that the Complainant did not meet the standards of the Code of Conduct. The Committee is of the opinion that better (written) administration of the functioning of the Complainant by the Defendants could have prevented a large part of the problems.

In view of the above, the Committee concludes that there is no question of insufficient compliance with standards and principles as formulated in the Code of Conduct. In view of the foregoing, the Committee advises the Executive Board to declare the complaint unfounded, in the sense that there is no violation of research integrity by the Defendants.

## **4 Initial decision of the Executive Board on October 4, 2021**

The Executive Board follows the advice of the Committee and concludes the allegations are unfounded.

## **5 LOWI**

The case was not submitted to the LOWI.

## **6 Final decision of the Executive Board on November 12, 2021**

The (initial) decision of the Executive Board became the final decision on November 12, 2021.