Universiteiten
van Nederland

Casus Wetenschappelijke Integriteit

2024

Schending van de Wetenschappelijke Integriteit door plagiaat, een slechte onderzoekscultuur, het verhinderen van loopbaanontwikkelingen en het schenden van de zorgplicht - 'minor shortcoming' en 'questionable research practice'

Universiteit Maastricht

PROCESVERLOOP

On the 13th of January 2023, the CWI sent a confirmation of receipt to [klager 1] and on the 16th of January 2023 the CWI sent a confirmation of receipt to [klager 2]. On the 25th of January 2023, the complainants were informed that the complaints were admissible, and the [groep] were sent a copy of the complaints and were asked to submit a statement of defense. On the 1st of February 2023 the Committee received a writing of the [groep] asking to postpone the deadline for filing the statements of defense. The CWI granted the requested extra time and on the 3rd of February 2023 the [groep] were informed that the new deadline for the statements of defense was the 1st of March 2023. By the 1st of March 2023 all statements of defense (with attachments) were received by the CWI.
Both complainants were given the opportunity to reply to the statements of defense of the respondents. On the 2nd of March 2023, [klager 2] asked for one week extra time to give a response to these statements, and on the 6th of March 2023, the CWI received a similar request from [klager 1]. These requests were granted.
On the 16th of March 2023, both [klager 2] and [klager 1] had submitted their response to the rebuttals of the [groep], which led to a request on the 17th of March 2023 for a final response of the [groep]. On the 18th of March 2023, [klager 2] sent the CWI an additional document. The CWI found that this document was not sent within the set timeframe and therefore concluded that the document was inadmissible.
The final responses of [beklaagde 1], [beklaagde 2] and [beklaagde 3] were received on the 24th of March 2023.
The complainants were informed about the final responses of the [groep] on the 28th of March 2023. On the 29th of March 2023, the parties were sent an invitation for a hearing on the 3rd of April 2023. In reaction to this invitation [beklaagde 1] and [beklaagde 2] asked the CWI to be heard separately from [beklaagde 3]. The CWI then decided to divide the hearing into two parts: first [beklaagde 1] and [beklaagde 2] would be heard, and after that [beklaagde 3], in both cases in the presence of the complainants. On the 31st of March 2023, all parties were informed about the schedule for the 3rd of April 2023. Later that day, [beklaagde 3] informed the CWI that he would not be present on the 3rd of April 2023 and wished for the meeting to be postponed. Therefore, a second meeting was scheduled on the 13th of April 2023 at which [beklaagde 3] with his legal advisor, as well as [klager 1] and [klager 2] were present.
At the end of the hearing on the 3rd of April 2023 [klager 2] briefly summarized a written statement, of which the CWI requested a copy in order to share this with the other participants. As the text that the CWI received was not limited to that statement, the CWI concluded that this text was inadmissable.
The draft reports of the hearings have been sent to the complainants and respondents who had attended a particular hearing for a factual check, after which the CWI has finalized these reports.
In the following, the CWI summarizes the essentials of the submitted complaints and the related defense, as seen by the CWI given its remit, after which the CWI will present its considerations and recommendations.

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SAMENVATTING VAN DE KLACHTEN

Complaint filed by [klager 1]

The complaint concerns three main topics: plagiarism and bad research culture, plagiarism and improper use of research funds and obstruction of career development. In brief, the complaints include the following.

Plagiarism and bad research culture

[Klager 1} states that he had done most of the writing of the [organisatie] grant proposal [nummer] (December 2019), and that when the grant eventually was awarded, an amount of 700,000 euro became available for the department. [Klager 1] indicates that in previous conversations [beklaagde 3] promised him a permanent position as a researcher at [Universiteit] if the grant would be awarded. When the grant indeed was awarded, [klager 1] was told that the awarded grant would not be used to further employ him. In addition, [klager 1] found out that his name was removed from the grant proposal as an author. [Klager 1] states that, according to [beklaagde 3], this was a strategic decision.

In the [afkorting] application (April 2022) and the [afkorting] [soort] proposal [nummer] (April 2022), [klager 1] was, despite the fact that his work was used for these proposals, not mentioned as a co-applicant nor was he credited for the content that he created or asked for permission to use his ideas (including an idea regarding the [methode] (a technique mentioned in the [afkorting] [soort] proposal which had been used in a previous grant proposal [naam] in which he was involved)).

In this first part of [klager 1]'s complaint he also states that he saw numerous instances where senior members of staff were taking credit for work (including publications and grant proposals) that they were not involved in. In this context, he mentions inclusion of [beklaagde 2] as a principal investigator on a research proposal ([naam}, reference [nummer]), although he had not made a significant contribution to its writing. He also mentions the "broad authorship" policy of the department. In a message to [klager 1], [beklaagde 3] explained this policy as adopted by the department, wherein "any scientist who has had a scientific contribution, past or present and has reviewed the paper will be co-author of the scientific paper". According to [klager 1], this practice is not in line with the policy of [faculteit], nor with that of the [internationale commissie] ([afkorting]) as stated in the [organisatie] Research code.

Plagiarism and improper use of research funds

In December 2020 a patent was filed by [organisatie] (a spin-off company founded by [beklaagde 3] which has connections to the Department) and in December 2021 another patent was filed by a company that is called [organisatie]. [Klager 1] claims that one of these patents is based on an idea that was developed by [klager 2] at [Universiteit]. During his time as an employee at [Universiteit], [klager 1] fine-tuned the initial idea and found a way of executing it. He states that [Universiteit] should have been mentioned as one of the owners of these patents in addition to [organisatie] and [organisatie], respectively, and he himself should have been named as co-inventor on one of the patents. [Klager 1] felt like he had been used to generate intellectual property for private companies.

Obstruction of career development

[Klager 1] was promised job security and in return [klager 1] agreed to move from the [land] to a foreign country with his young daughter and his wife. He worked hard and always felt the pressure of achieving objectives faster, in order to meet deadlines and submit more grant proposals before other competitors did. [Klager 1] was assured that he would benefit from this in the long run: a permanent position. But that did not happen. In addition, during the time he worked for the department [klager 1] did not receive any training that promoted his development opportunities and career prospects, and there was no personal development plan created. Moreover, he was excluded from supervision meetings with a PhD candidate, for whom he was a co-promotor.

Complaint filed by [klager 2]

[Klager 2] asked the attention of the CWI for the following overall topics: plagiarism and violation of institution's duty of care.

Plagiarism

[Klager 2] described four situations in which he claims plagiarism occurred:
(1) the [organisatie] grant [nummer]
(2) the [afkorting] [soort] grant [naam] Call [nummer], number [nummer]
(3) the [organisatie] [afkorting] [type] programme, call [nummer]
(4) missed author credit on two posters by Dr. [naam].
[Klager 2] was approached by [klager 1] to help with providing supporting information for the submission of the [organisatie] grant (1) he was writing. [Klager 2] agreed to let [klager 1] use his supportive data in the form of scientific results on engineered [type] molecules. He then found out that the grant application was not filed in name of [klager 1], but of [beklaagde 2], [beklaagde 1] and [beklaagde 3]. [Klager 2] claims that, as the applicants lacked permission to use his data, this was a case of plagiarism. [Klager 2] also claims that material, including a figure he created (and that was part of a presentation he gave in 2021 and sent upon request to [beklaagde 3] and [beklaagde 2]) was used by [beklaagde 3] when the [afkorting] grant (2) was submitted, without his permission to do so. According to [klager 2], Prof. [naam] of [Universiteit] was confronted with a similar situation in grant case (3), as ideas that were used in a former grant application in which Prof. [naam] and [beklaagde 3] collaborated, were used in a new grant application without asking his permission.
As to the posters created by Dr. [naam], [klager 2] reports that these included research and results designed and created by him. The results that were pictured would not have been achieved if it wasn't for the contribution of [klager 2], but he was not included as a co-author.
Violation of Institution's duty of care
In part 2 of his complaint, [klager 2] describes examples of what he considered a violation of the institution's duty of care. He complains about issues such as not receiving teaching credits, intimidation, gaslighting, violation of his social safety and persistent harassment. A violation of the duty of care is, according to [klager 2], also seen in the way he lost access to the [Universiteit] premises and his e-mail account. [Klager 2] says he was put under pressure to sign an agreement that he did not agree with, in order to receive access to the university premises. On the other hand, for four years, several research projects were developed using materials from the [Universiteit], while neither [Universiteit] nor any of the related companies had approached the [Universiteit] to ensure that a Material Transfer Agreement or collaboration agreement was in place. [Beklaagde 3], [beklaagde 1] and [beklaagde 2] were reluctant to communicate with [Universiteit] representatives about this.
[Klager 2] describes that he was able to stop a shipment of [type] materials (owned by [organisatie]) to [land] (to Dr. [naam]'s department), that - without the knowledge or permission of [organisatie] – [beklaagde 2] and [beklaagde 1] initiated.
[Klager 2] complains about the department's 'broad authorship policy' as contradicting the rules endorsed by the [Universiteit], about how authors were added at the final stages of publications and about not justified authorship on grant proposals. As to the latter, he mentions the in her view unjustified inclusion of [beklaagde 2] in the grant proposal [organisatie] [afkorting] [type], [naam], [nummer].
[Klager 2] also complains that his career was stifled, that he did not receive appropriate mentoring or coaching, and that despite putting himself forward to participate in more advanced teaching positions or as a formal mentor to students, he was rejected.

SAMENVATTING VAN VERWEER

Defense of [beklaagde 3]
Complaint of [klager 1]
Concerning the [organisatie] proposal [nummer], [beklaagde 3] reacts that the concerned grant application was an extension of earlier grant applications written without [klager 1]. [Klager 1] was not named as a principal investigator (PI) on the submitted [organisatie] grant application because he left on holidays a few days before the submission of the application, and only 60% of the work had been completed. Not only were major parts missing, also content and structure required major adaptations. According to [beklaagde 3] the

difference between a rejected grant and an approved one is in the last details and therefore [klager 1] could not be held responsible for the final version of the grant. It was eventually a strategic decision to not include [klager 1] as a co-PI as he could not approve the final version and had no PIN code for the [organisatie] portal. Furthermore, he had an extremely weak CV with no publications. The decision not to include [klager 1] was a shared decision (of [beklaagde 3], [beklaagde 2] and [beklaagde 1]). Looking back, [beklaagde 3] indicates that they should have communicated things differently.
After the approval of the grant by [organisatie], in October 2020, it was agreed to formally make [klager 1] a co-PI of the project, and this was published on the department's website and a letter to [organisatie] was sent.
With respect to the [afkorting] grant, the rejected [organisatie] high risk proposal [nummer] was used as input and this required a department-overarching contribution. For this reason, neither [klager 1], nor [beklaagde 1] and [beklaagde 2] (who submitted a competing proposal in the same call) have been included in this application. It is very common for scientists to resubmit a grant proposal, as this practice is seen as a way to improve upon previous work and increase the chances of success. These applications were rejected, which also means that their non-inclusion did not have a (negative) impact on the career of the scientists.
As to the [afkorting] [soort] proposal, [beklaagde 3] indicates that the [methode] is a minor aspect of the grant (contingency plan), that the [methode] has been used in several previous grants of the respondents, and that the [methode] is a concept in the public (scientific) domain.
As to [klager 1]'s claim with respect to the idea that was patented by [organisatie], [beklaagde 3] replies that he does not see any convincing proof that [klager 1] has had a meaningful contribution in this patent. As far as he remembers, this work was carried out by a PhD student (in Prof. [naam]’s lab, [land]) and was taken over by [klager 2] upon arrival to the lab at [Universiteit]. The patent is filed by [organisatie] with [klager 2] as inventor. [Beklaagde 3] is not involved in this matter, since he is not mentioned as co-inventor of the patent. In addition, there is an agreement approved by the legal department (signed by the management of [faculteit) which covers this and refers to art. 6.3, 6.4 and 6.7 of the agreement. [Beklaagde 3] serves as a scientific advisor for [organisatie], which has been approved and made public. He does not hold shares in [organisatie].
[Beklaagde 3] indicates that he recalls a conversation with [klager 1], in which he acknowledged that his profile would be better suited for a career in industry rather than academia and sought the opinion of [beklaagde 3] on this matter. At a certain point in his career, [klager 1] independently made the decision to invest in a career in the industry (with money investment in [afkorting]). [Beklaagde 3], [beklaagde 1] and [beklaagde 2] are minority shareholders in [afkorting] and it is common practice to ask employees of start-ups whether they want to invest in the company.
It has always been made very clear that a permanent position for [klager 1] was not a decision that could be made by [beklaagde 3]. Even if a new position was to be created, [klager 1] should have to compete with other candidates with a larger track record than he has. In addition, [klager 1] has made it clear that he is not interested in teaching, and he was not very rigorous with his teaching tasks.
[Klager 1] will stay co-promotor of the PhD candidate. When employees leave the department, it is common practice that they are no longer involved in the direct supervision, but this does not imply that [klager 1] can no longer act as a co-promotor or co-author of papers when he has had a meaningful contribution.
Complaint of [klager 2]
In reaction to the first part of the complaint of [klager 2], [beklaagde 3] repeats his statement concerning the [organisatie] grant [nummer] as mentioned in the reaction to the complaint of [klager 1]. Referring to [onderzoek], [beklaagde 3] indicates that the concept of the [type] system is well-known in the department and has been in the public domain for many years. [Klager 2] has no scientific papers on this topic and the papers that were found do not cite him. As to [klager 2]'s complaint that [beklaagde 3] used a figure created by him in the [afkorting] “[onderzoek]”grant proposal, without his permission to do so, [beklaagde 3] says that this figure was already part of a presentation from [organisatie], without a source or creator being mentioned, that according to [beklaagde 3] was given in 2020.

While [klager 2] indicated that Prof. [naam] also has complained that ideas of his were used in a grant application of [beklaagde 3], he never heard about this issue. Prof. [naam] was specifically named in the [titel] grant as one of the three advisors on the project. Moreover, the CEO of [organisatie]/[organisatie] confirmed to him that he has never been approached by Prof. [naam] regarding this issue.
[Beklaagde 3] also elaborates about the results of the cultural audit report of the Department. The department recognized that work needed to be done, fully cooperated with the audit and took action based on the advices that were given.
With regard to what [klager 2] said about the situation in which he was not able to perform his work duties, [beklaagde 3] states that a guest agreement was needed in order to access the university. [Klager 2] refused to sign this guest agreement, and there were some discussions about compliance with the rules. After the the guest agreement was signed, [klager 2] was able to access the lab and could execute his work.
When presenting on a conference in [plaats], [klager 2] presented confidential data of the university without approval of the PI's. He did not cite the proper co-authors, which was shocking to [beklaagde 3]. It put him in an awkward position at the conference as several people in the audience were familiar with his work and regularly reviewed his grants and his papers. This situation has damaged the reputation of the university, [beklaagde 3] and the department.
As for the issue that the company ([organisatie]) did not sign the material transfer agreement that had been requested by the [Universiteit], this is a matter for the company. The department was not aware of the confidential agreements of the firm. When asking the question to the ex-CEO of [organisatie] on the 1st of Februari 2022, he responded that he "never asked [klager 2] to bring that specific [stof], we actually told [klager 2] to ONLY take the materials that [organisatie]/[organisatie] rightfully owned." [Beklaagde 3] concludes that [klager 2] has been working with this [stof], which means that he obtained it from [universiteit] without the knowledge of the department.
The department follows a broad authorship policy to recognize contributions at several levels. Sometimes these might be conceived by others as only minor contributions, although behind the screens a
lot has been done. The department emphasizes team work. For this reason it was requested to add [beklaagde 2] to the grant proposal [organisatie] [afkorting] [type] "[titel]".
As for [klager 2] indicating that his academic career was stifled, [beklaagde 3] states that he was not – and was not allowed to be – his supervisor. He received coaching and mentoring from [beklaagde 1] and [beklaagde 2], who in his view did their best to smooth things out.

Defense of [beklaagde 2]
[Beklaagde 2] focuses his reaction on issues that are addressed to him personally.
Referring to the decision not to include [klager 1] in [organisatie] proposal [nummer], he says that [klager 1] indeed prepared the first draft for the [organisatie] proposal. But when he left on vacation (one day before the deadline) the proposal text was far from final. Based on strategic motives ([klager 1] did not have any publications) it was decided not to include him as a PI in order to increase the chances for approval. [Beklaagde 2] regrets the way things went and how the decision was communicated. It was tried to remediate the situation by adding him as a PI, which would also ensure that [klager 1] would be able to add it to his CV.
[Beklaagde 2] also comments on the complaint referring to the [organisatie] [afkorting] [type] "[titel]" proposal. He volunteered to contribute and comment on the grant, but was told that his contribution was not necessary. Nevertheless [beklaagde 2] read, modified and commented on the entire proposal during the weekend and he volunteered to take his name off the proposal. Eventually he was included because all other participants wanted him to be listed as a co-applicant.
Regarding the complaint of [klager 1] concerning plagiarism in the patent application, [beklaagde 2] says that he is surprised that his name is mentioned in this complaint as he is not listed as a co-inventor of this patent. As this patent has been filed with [klager 2] as the only inventor, [klager 1] should address his complaint to [klager 2]/[organisatie].

While [klager 2] complains about data which were used unauthorized because he was not asked for permission, according to [beklaagde 2] the permission to use the data for scientific purposes was covered in the MTA between the director and the CEO of [organisatie]. As to the complaint [klager 2] makes concerning passing on biological materials without an underlying agreement: according to [beklaagde 2] all the research work that had been done at [Universiteit] with the biological materials was covered by the MTA between [Universiteit] and [organisatie]. The department was only informed in August 2022 (and thus retrospectively) that the agreement between [Universiteit] and [organisatie] regarding this material had not been officially arranged. Thereafter, the intention to find solutions has been indicated. It was a mistake to assume that the agreement between the [Universiteit], the [Universiteit] and [organisatie] included shipment and use of [type]l material. When [beklaagde 2] realised this, this was corrected by putting an additional MTA between [organisatie] and the [Universiteit] in place.
Regarding [klager 2]'s claim that he did teaching work for which he did not receive official credits, he states that only [Universiteit]/[faculteit] employees were entitled for official (financial) education FTE credits. Furthermore, [klager 2] did not complete his University Teaching Qualification (UTQ) nor the mandatory examiner training. He was well aware of these regulations.
With regard to the complaint of missed author credit on two posters by Dr. [naam], the involvement of [klager 2] with respect to this work has in the opinion of [beklaagde 2] been acknowledged by his inclusion as a co-author on the related peer-reviewed full paper.
[Beklaagde 2] feels deeply offended by the according to him false accusations about intimidation and gaslighting. As to [klager 2]'s complaint that [beklaagde 2] obstructed him in executing his work duties, [beklaagde 2] responds that he and [beklaagde 1] tried to arrange the practical continuation of the lab work and to de-escalate the disagreement between [klager 2] and [beklaagde 3]. [Beklaagde 2] objects to the accusation of "violation of social safety and persistent harassment", which is not supported by any evidence.

Defense of [beklaagde 1]
{Beklaagde 1] focuses his reaction on complaints that are addressed to him personally.
In line with the defense of [beklaagde 2], [beklaagde 1] confirms that [klager 1] prepared a first draft for the [organisatie] grant proposal, but the version he sent to [beklaagde 2] and [beklaagde 1] when he
left on vacation was far from final. The team needed to work through the night ensuring a timely submission on December 18, 2019. The team made the strategic decision not to include him as a co-PI in order to increase the chances for approval. [Beklaagde 1] regrets this decision and indicates that the team should have done things differently. This is why the team tried to solve this matter by adding [klager 1]'s name to the department website and by asking [organisatie] to add him as a co-PI to the proposal.
[Beklaagde 1] indicated that a PhD student with expertise in [onderzoeksgebied]was hired for the [organisatie] project. The reason for this was that the salary of [klager 1] was already secured, including the extension with two additional years.
Part of the data that were used in the [organisatie] grant proposal were indeed produced by [klager 2]. However, the part in question was a product of teamwork as well as longstanding collaboration. The permission to use the data was covered in the MTA between the director and the CEO of the company.
According to [beklaagde 1], in a publication ([publicatie] 2021) of which [klager 2] and [klager 1] were joint first authors, two technicians who had made important contributions should have been acknowledged as co-authors (instead of being mentioned in the acknowledgment section), and the final to-be submitted manuscript has not been sent out for approval to all co-authors. In his opinion this goes against even the rules endorsed by the university.
Concerning plagiarism and improper use of research funds, with regard to the two patents mentioned by [klager 1], [beklaagde 1] aligns with the defense of [beklaagde 2]. As to the two posters by Dr. [naam], [beklaagde 1] says that the authors only later became aware that [klager 2] actually constructed the relevant strain, for which he has been rightfully acknowledged in the full by his inclusion as a co-author on the peer-reviewed full paper.

Concerning [klager 2]'s complaint of violation of the institute's duty of care, [beklaagde 1] strongly disagrees with his claim of not receiving offical credits for teaching duties, and responds in line with [beklaagde 2]. He also emphasizes that proper agreements were made and that the accusation of "violation of social safety and persistent harassment" is false and not supported by any evidence. In addition, he objects to the claim that [klager 2] did not receive any mentoring or coaching. He was given explanation in different occasions.

OVERWEGINGEN CWI

Considerations concerning the complaint of [klager 1]
The first part of the complaint, entitled '[titel]' specifically concerns the [organisatie] grant proposal [nummer], the [afkorting] application (April 2022), and the [afkorting] [soort] proposal [onderzoek] (April 2022). With regard to [organisatie[[nummer] the CWI, from the vast input it has received based on all submitted documents and the two hearings, concludes that [klager 1] has made substantial efforts to prepare and write a draft proposal, and based on that (irrespective of the question whether or not he was also substantially involved with developing the fundamental scientific concept to be studied) it was justified for him to expect that he would be acknowledged as co-principal investigator (co-PI). The fact that in the days before submission the proposal text has been finalized by [beklaagde 1] and [beklaagde 2] does not make a difference in this respect. This has, in retrospect, also been confirmed by [beklaagde 1], [beklaagde 2] and [beklaagde 3], who have indicated that [klager 1] should have been acknowledged as co-PI.
The CWI considers the fact that in the proposal, as submitted, [klager 1]'s name was deliberately not mentioned to be a serious shortcoming, i.e. using a researcher's work without giving him appropriate acknowledgement and credit. The explanation that mentioning [klager 1] would have decreased the chances of a positive [organisatie] decision does not hold since a number of more senior investigators were clearly also involved. Moreover, it is important for young investigators to be mentioned to research funding organizations as being formally involved in the research to which they are substantially contributing. In this context, the CWI would not agree with the view as presented by [beklaagde 3], [beklaagde 1], [beklaagde 2] and Dr. [naam] in a paper entitled '[naam]' (dated 21 September 2021) that there is a priori a distinction between a submitted project and an approved project, if that would imply that in the submitted proposal, as in this case, a scientist can be deliberately not mentioned although he is strongly involved at the time of submission, and can later be added to the approved project. Such a practice would also not be in accordance with the required full transparency towards research funding organizations.
Efforts have been made to restore the omission of not mentioning [klager 1] in the [organisatie] proposal [nummer] as submitted. However, the efforts made on the department's website did, for quite some time, not look very consistent and convincing. In addition, about 22 months after acceptance of the project by [organisatie], [beklaagde 3] has written to [organisatie], saying that, on the request of the concerned scientist, he would like to indicate formally that it was decided, already in October 2020, to add [klager 1] as investigator (also named "Principal Investigator" in the [organisatie] template). However, [klager 1] received a message from [organisatie] that it cannot make changes to details of applications after they have been granted.
This problem with [organisatie] grant proposal [nummer] would not have occurred if, from the moment of submission, the principle of not using 'another person's ideas, work methods, results or texts without appropriate acknowledgement' (Netherlands Code of Conduct for Research Integrity (NCCRI 2018), page 23, also reflected in the Code's standard 40 - 'When making use of other people's ideas, procedures, results and text, do justice to the research involved and cite the source accurately'- which the CWI considers also essential for research proposals) would have been respected by the respondents.
With respect to the [afkorting] proposal (April 2022 application), the CWI has concluded that parts of this proposal are derived from work that [klager 1] did for a previous unsuccessful grant proposal ([organisatie] [nummer], submitted 2019), without crediting him for the content that he created. According to the CWI the principles as described above should have been respected by [beklaagde 3] in this case as well.

As to the [afkorting] [soort] proposal [onderzoek] Call [nummer], number [nummer] (April 2022), the CWI has concluded that [beklaagde 3] mentioned the application of a [type] technique (i.e. [voorbeeld type]) in the contingency plan of this [afkorting] advanced grant. This technique has been described in the scientific literature for quite some time and [klager 1] used and described this idea in a previous grant proposal that he contributed to, which was unsuccessful ([titel], submitted 2020). When asked by [beklaagde 3] for input about this technique for the [afkorting] grant, [klager 1] refused to provide it and asked [beklaagde 3] not to use this idea in his grant. [Beklaagde 3] replied that he did not use the idea. [Klager 1] later found out that it was still mentioned in the [afkorting] grant proposal, although only in the contingency plan. The CWI concludes that there is no justification for the request by [klager 1] not to use the idea, but the communication by [beklaagde 3] about this was not fully transparent.

In part two of his complaint, entitled '[titel]', [klager 1] contests the way in which two spin-off companies, [organisatie] and [organisatie] were able to file patent applications based on scientific research that had occurred at [universiteit], without due recognition of the role of the university in the invention, and in particular the role played by [klager 1] himself. The reasons why he could consider that respondents have a responsibility in this matter are that all three respondents are minority shareholders in [organisatie], that [beklaagde 3] is scientific advisor of [organisatie] and that, as head of the department, he validated the arrangements between [Universiteit] and the spin-off companies in this field.

In his reply, [beklaagde 3] argues that [klager 1] does not provide evidence that he made a meaningful contribution to the research underlying the patent applications and that, anyway, the potential use of [Universiteit]y research for patent applications by the spin-off companies is covered by agreements between the [Universiteit] and each of the spin-offs.

Among the documents submitted to the CWI, there are indeed two Framework Agreements, one concluded between [universiteit] and [organisatie] (dating from 1 August 2020) and a very similar one concluded between [Universiteit] and [organisatie] (dating from 1 November 2020). In both these agreements there are explicit provisions dealing with intellectual property. It is stated that all inventions that result from Work Orders requested by the company from [Universiteit] solely belong to the company 'regardless of inventorship or authorship', provided of course that the company has paid all the relevant Work Order fees. The agreements also define what should be understood as 'Work Orders'; these are agreements for specific research services within the overall scheme of the Framework Agreement.

The key question is, therefore, whether the patent applications filed by [organisatie] and [organisatie] describe inventions that result from Work Orders or not. Our CWI does not have evidence about the existence, or not, of Work Orders related to the subject matter of the patent applications. We do note, however, that the patent application filed by [organisatie] dates from December 2020, that is, only one month after the conclusion of [Universiteit]-[organisatie] framework agreement, which makes it rather unlikely that the application is based on research described in a Work Order implementing the agreement. On the other hand, the patent application by [organisatie] was filed in December 2021, that is, some 16 months after the conclusion of the agreement with [Universiteit]. In this case, it is more likely that the patent application resulted from one or more Work Orders but, as mentioned above, we do not have evidence of their existence.

So, whether or not [klager 1]'s research contributed in a significant way to the invention filed by the companies does not matter, for our purposes, as long as that research was covered by a Work Order between the companies and [Universiteit]. If so, [klager 1]'s complaint that 'I feel like I have been used to generate intellectual property for private companies despite being employed by the University' does not amount to an infringement of the Code of Conduct. It seems, however, that the framework agreements were concluded at a relatively late stage, and that prior to their conclusion the conditions for the use of [Universiteit] inventions by spin-off companies were not clearly regulated, which could lead to a impression among the researchers employed by the university, that their research might serve for private gain.

However that may be, in the absence of more specific evidence about the existence of relevant Work Orders, we are not in a position to conclude on the existence of an infringement of the Code of Conduct in this matter. Whether the current arrangements, as laid down in the framework agreements, constitute a fair allocation of

rights and obligations between the university and the spin-off companies is another matter, which is not within the remit of our CWI.
Concerning part three of [klager 1]'s complaint, entitled “[titel]”, the CWI considers that the subject of this part is in principle outside the CWI's remit as, in the CWI’s view, it primarily concerns a labour dispute (article 4.5.f. vii of [Universiteit] Regulations on Academic Integrity). The CWI would nevertheless have considered part three of [klager 1]’s complaint if it had indirectly raised additional issues of scientific integrity, beyond those already considered under other headings of the complaint. However, the CWI takes the view that this has not been clearly demonstrated. Moreover, perceived problems regarding career planning in the department are already being considered in connection to a [faculteit]/[Universiteit] audit ('[titel]') that was performed in 2022.

Considerations concerning the complaint of [klager 2]
With regard to the content of part one of [klager 2]’s complaint, entitled "Plagiarism", the CWI has already addressed the most essential issues related to the submission of [organisatie] grant [nummer] as raised by [klager 1]. In addition to these issues - according to [klager 2] – [beklaagde 2], [beklaagde 1] and [beklaagde 3], when submitting the grant without mentioning [klager 1], did not have the permission to use the data that he offered to [klager 1]. The CWI considers that this claim - irrespective of whether the condition that only [klager 1] was allowed to use these data, a priori has and could have been imposed on all concerned - is secondary to the already addressed issue that [klager 1] should have been mentioned as co-PI at the time of submission, and does not substantially add to the CWI 's weighing of the latter.
As to the [afkorting] [soort] grant [onderzoek] Call [nummer], number [nummer] the CWI considers that although [klager 2] claims that he worked on the technique of [type] and would be the only one in [plaats] knowing how to apply this technique, the technique of [type] has been described in the literature and could therefore be used by [beklaagde 3] in his grant proposal, similar to the use of the [methode] mentioned before. According to[klager 2], [beklaagde 3] used a figure he created in the [afkorting] [onderzoek]grant proposal, without his permission to do so. While the CWI considers that [beklaagde 3] used a figure that was part of a presentation he gave in 2021, according to [beklaagde 3] the figure was also part of a presentation from [organisatie] without a source or creator mentioned that that was given in 2020. While the CWI considers that [klager 2] could be the creator, it has not received independent, convincing evidence linking this specific figure, when first presented, directly to a particular author, and therefore cannot draw a definitive conclusion as to authorship.
Regarding the [organisatie] [afkorting] [type] programme, call [nummer], the CWI's evaluation is that [organisatie] submitted and obtained this grant. [Beklaagde 3] stated that he did not know that the proposal was submitted without the knowledge of Prof. [naam] from [plaats], and that Prof. [naam] did not complain about this to [organisatie], the responsible company in this matter. Since [organisatie] is not a party in this procedure, the CWI refrains from a judgement in this case.
The issue of missed author credit on two posters by Dr. [naam], for which according to the CWI [klager 2]'s work was relevant, is seen by the CWI as an illustration of the intransparant way in which co-authorships are handled by the department. The CWI found the defense not convincing given the broad author policy of the department itself.
As to part two of [klager 2]’s complaint, entitled "Violation of Institution’s duty of care", the CWI considers that this is in principle outside the CWI's primary remit (see section 4.1. NCCRI (2018) and article 4.5.f. vii of [Universiteit] Regulations on Academic Integrity) and should only be considered if and as far as it has resulted in infringement of scientific integrity, apart from what has already been considered in the context of specific complaints as to scientific integrity. The CWI does not consider this to be clearly the case, apart from [klager 2]'s reported experience to have been put under pressure to agree with the department's (co-) authorship policy that he considers to be in conflict with internationally agreed authorship criteria. As to this point, the CWI found the department's 'broad authorship' policy, which deviates from the IMCJE recommendations, undesirable and ethically risky. However, given the relatively broadly formulated requirements regarding (co)authorship in the current NCCRI, the CWI sees insufficient ground to express

this in one of the categories of infringement of scientific integrity. Furthermore, the CWI emphasizes that the topic of the department's duty of care is already being considered in connection to the [faculteit]/[Universiteit] audit ('[titel]') that was performed in 2022.

Additional/general considerations

Here, the CWI adds some comments of a more general nature.

- The multitude of appendices with correspondence on (co)authorships of scientific publications point at insufficient a priori transparency of who will be (co)author, which criteria are and should be applied, what changes can and cannot be made at a later stage and for what reason, and how decisions are – and have to be – made by whom in what stage. In addition, there is some general ambiguity related to differences between international (IMCJE), national (the NCCRI), [Universiteit], [organisatie] and departmental policies on this important topic. The CWI suggests that the Executive Board brings this ambiguity under the attention of the deans and the research leaders at [Universiteit]. In addition, with regard to differences that departments might make between submitted and accepted projects, the CWI suggests that - given the dependent situation of young investigators and the importance for them to be externally acknowledged for their work - Universities of the Netherlands could start a dialogue with research funders on whether their policies on this matter should be clarified or improved.
- The CWI found the combination of and interaction between the university- and company-related roles of department seniors and postdocs involved in this case complex and not always transparent. The CWI considers any unclarity or intransparency of distinctions between academic and company-related roles a risk factor for safeguarding scientific integrity. This aspect may be of a more general academic relevance, so the CWI proposes to the Executive Board to check whether there is need and room for improvement at this point.
- In his statement of defense one defendant wrote he would like to formally file a complaint regarding breach of scientific integrity by the complainants, and asked the CWI to inform him whether this could be done in the statement of defense or whether an independent complaint should be submitted. Two other defendants requested the CWI in their statements of defense to take action against a complainant. Clearly, a statement of defense is not the place to file new complaints or to request the CWI to take action. All members of the academic community should use the regular process as the appropriate route along which they are of course free to submit complaints, provided that these are focused on issues of potential infringement of scientific integrity. This might be better clarified in the information provided to the academic community.

ADVIES EN AANBEVELINGEN

As to the submitted complaints, the CWI has concluded the following:

- Given that [klager 1] has made substantial efforts to prepare and write the draft [organisatie] grant proposal [nummer], it was justified for him to expect that upon submission of this proposal he would be acknowledged as co-PI. The CWI considers the fact that [klager 1] was deliberately not mentioned, without discussing this with him in advance nor informing him directly after submission, a serious shortcoming, that is, using a researcher's work without giving him appropriate acknowledgement (using 'another person's ideas, work methods, results or texts without appropriate acknowledgement' (NCCRI (2018), page 23), also reflected in the Code's standard 40 ('When making use of other people's ideas, procedures, results and text, do justice to the research involved and cite the source accurately')). The complaint at this point is therefore both admissible and well-founded. The fact that, in retrospect, [beklaagde 1], [beklaagde 2] and [beklaagde 3] have indicated that [klager 1] should indeed have been acknowledged as co-PI, that efforts were made – albeit at a late stage and not successful at [organisatie] - to repair what went wrong, and that

[klager 1] will be co-author of results papers from the project, cannot remedy what has happened but is appreciated by the CWI and taken into account in its recommendations.

- As to the [afkorting] grant application, the CWI concludes that [beklaagde 3] has used work that [klager 1] did for a previous grant application without proper acknowledgement (NCCRI, 2018, standard 40). So also this complaint is admissible and well-founded, although the shortcoming is less severe than the previous one.
- With regard to the [afkorting] grant, the CWI concludes that the [methode] was not a new idea, being already published years before. The CWI considers that the fact that [klager 1] has put this idea forward in a previous proposal is not a sufficient reason, in itself, to require colleagues not to mention the idea in (the contingency plan of) a new proposal. Although the within-department communication by [beklaagde 3] towards [klager 1] should have been better, the CWI does not consider this a scientific integrity issue. So this complaint, while admissible, is not well-founded.
- With regard to [klager 1]'s complaint on the way in which [organisatie] and [organisatie] were able to file patent applications based on scientific research that had occurred at the [Universiteit], without due recognition of the role of the university and himself in the invention, the CWI concludes that in the absence of more specific evidence about the existence of relevant Work Orders, it is not in a position to conclude on the existence of an infringement of scientific integrity in this matter. So this complaint, while admissible, is considered not well-founded. Whether the current arrangements, as laid down in the framework agreements, constitute a fair allocation of rights and obligations between the university and the spin-off companies is another matter, which is not within the remit of our CWI. At the same time however, the CWI suggests to the Executive Board to promote clarity, transparency of rules and responsibilities in this situation and in similar situations.
- Regarding [klager 1]'s complaint about obstruction of career development, which is outside the CWI's primary remit unless it would have led to infringement of scientific integrity, the CWI could not conclude that possible problems in this respect have resulted in an infringement of scientific integrity, apart from what has already been considered in the context of the complaints specifically focused on scientific integrity. Moreover, perceived issues regarding career planning and duty of care in the department are already being considered in connection to a [faculteit]/[Universiteit] audit ('[titel]') that was performed in 2022.
  So this complaint, while admissible, is considered not well-founded.
- As to [klager 2]'s complaint with regard to [organisatie] [nummer], the CWI considers that his claim - irrespective of whether the condition that these data should only be used by [klager 1], could and was a priori transparently imposed on all those involved - is secondary to the already addressed (admissable and well-founded) complaint that [klager 1] should have been mentioned as co-PI at the time of submission, and does not substantially add to the CWI's weighing of the latter.
- With respect to [klager 2]'s complaint that [beklaagde 3] used a figure created by [klager 2] in a [afkorting] grant proposal without his permission to do so, the CWI is unable to draw a definitive conclusion. The CWI therefore considers this complaint to be admissable but not well-founded.
- With regard to the [titel] grant application the CWI refrains from a judgement since [organisatie] is not a party in this procedure.
- [Klager 2]'s complaint of missed author credit on two posters by Dr. [naam], for which according to the CWI [klager 2]'s work was relevant, is considered admissible and well-founded.
- [Klager 2]'s complaints regarding "violation of Institution’s duty of care", are considered in principle outside the CWI's primary remit unless potential issues in this respect have resulted in infringement of scientific integrity. According to the CWI that has not been clearly demonstrated, apart from [klager 2]'s reported experience to have been put under pressure to agree with the PM department's (co-) authorship policy that he considers to be in conflict with internationally agreed authorship criteria. However, while the CWI considers co-authorship policies that are in disagreement with the IMCJE rules undesirable and ethically risky, it sees insufficient ground to express this in one of the categories of infringement of scientific integrity given the relatively broadly formulated requirements

regarding (co)authorship in the NCCRI. Furthermore, the Institution's duty of care is already evaluated in connection to the [faculteit]/[Universiteit] audit ('[titel]') that was performed in 2022. So this complaint, while admissible, is considered not well-founded.

Based on its overall evaluation in connection to the submitted complaints, the CWI formulates the following recommendations.

- The CWI has observed a number of violations, mostly minor but one (the issue related to [organisatie] grant [nummer]) being more severe, while some other issues were outside the remit of the CWI. All relevant elements taken together, given the shared responsibility of the three respondents, [beklaagde 3]'s additional overarching responsibility for decision-making, and the assessment framework of the NCCRI 2018, the CWI formulates the recommendation of 'minor shortcoming' for [beklaagde 1] and [beklaagde 2] and 'questionable research practice' for [beklaagde 3].
- Furthermore, the CWI recommends [Universiteit] to consider to contact [organisatie] with the request to formally include [klager 1] as co-PI for project [organisatie] [nummer] as funded, if he is still available to fulfill this role, or otherwise as co-investigator or scientific adviser.

Finally, the CWI formulates the following general recommendations.

- (Co)authorship of scientific publications in the field of [vakgebied] should preferably be agreed upon in advance according to a process that is transparent to and acceptable for all intended (co)authors and line with ICMJE criteria. The CWI suggests that the Executive Board would bring this under the attention of the deans and the research leaders at the [Universiteit], and of the authors of the NCCRI.
- The CWI also suggests that, given the dependent situation of young investigators and the importance for them to be externally acknowledged for their work, Universities of The Netherlands start a dialogue with research funders on whether their policies on this matter can be improved.
- Given the general risks of lack of transparency in the distinctions between academic and company-related roles of researchers, the CWI proposes to the Executive Board to check whether there is need and room for improvement.
- Since in this case it seemed not fully clear to respondents that a statement of defense is not the place to file or announce new complaints or requests to take action, this might be better clarified in the information provided to the academic community.

AANVANKELIJK OORDEEL

On August 29, 2023, the Executive Board initially decides that the qualification of the violation of scientific integrity in the context of the [organisatie] project by [beklaagde 1] and [beklaagde 2] remain minor shortcomings and will not be amended to questionable research practice and the qualification of the violation by [beklaagde 3] remains questionable research practice.

The rector will invite [klager 1] and [klager 2] for a meeting.

LOWI-ADVIES

On April 3, 2024 the LOWI issued their advice which briefly stated the following:

1. The LOWI advises the Executive Board of [Universiteit] to qualify the identified violation of all the defendants as questionable research practice, which in short means that for [beklaagde 1] and [beklaagde 2] the qualification of the violation have to be amended from minor shortcomings to questionable research practice;

2. The LOWI advises the Executive Board of [Universiteit] to proactively and transparently communicate the findings of the ongoing investigation within the relevant department once the investigation has been finalized;
3. The LOWI advises the Executive Board of [Universiteit] to invite [klager 1] and [klager 2] for a second meeting with the Rector in which the measures that have been taken since the advice of the CWI will be discussed.

DEFINITIEF OORDEEL / BESLUIT

Taking into account the advice of both the CWI and LOWI the Executive Board decides on April 22, 2024, to uphold its initial decision as issued on August 29, 2023.

In deviation of the LOWI advice the Executive Board decides to uphold its initial decision as issued on August 29, 2023. This means that the qualification of the violation of scientific integrity in the context of the [organisatie] project by [beklaagde 1] and [beklaagde 2] remain minor shortcomings and will not be amended to questionable research practice and the qualification of the violation by [beklaagde 3] remains questionable research practice.

The reasoning for aforementioned deviation is as follows.
At the time the violation took place, [beklaagde 1] and [beklaagde 2] were associate professor ('UHD'), and the department was characterized by a rather hierarchical structure. Because of this, it is imaginable that an associate professor ('UHD') tends to go along with the decision of their supervisor, in this case [beklaagde 3]. As a consequence, the Executive Board deems a distinction in the severity of the qualification of the violation between [beklaagde 1] and [beklaagde 2] on the one hand and [beklaagde 3] on the other other hand fit.

Furthermore, all defendants admitted they made a mistake, and undertook action to correct the mistake by adding [klager 1] as co-PI to the [organisatie] Grant. This is now also officially changed in the [organisatie] administration.

The Executive Board is strengthened in its decision above by the positive changes in the culture within the Department that were achieved following the cultural investigation in 2022, and the role of [beklaagde 1] and [beklaagde 2] in these changes. Upon presentation of the results of the cultural investigation that took place, the Dean of the [faculteit] decided that [beklaagde 1] and [beklaagde 2] could continue their jobs and were given more responsibilities based on their performance and attitude. A recent evaluation shows that both [beklaagde 1] and [beklaagde 2] have fulfilled their tasks excellently.

The rector will invite [klager 1] and [klager 2] for a second meeting in which the measures that have been taken since the advice of the CWI will be discussed.