

Case of Research Integrity

2022

Various violations involving authorship consent and non-compliance – well-founded

Erasmus University Rotterdam

1 Subject of the complaint

Failure to provide co-author credit and seek co-author consent, non-compliance with the institution's policy with respect to data record keeping with in view of these publications, inappropriate use of institutional affiliations, and using departmental data and publishing manuscripts after termination of the working relationship, while this was explicitly forbidden.

2 Description of facts

2.1 Remit

The Executive Board of [institution] decided to establish a [Committee] on [date]. The Committee was established to follow up on the notification of a possible infringement of the research integrity by [Defendant], visiting researcher and PhD candidate at [department], hereinafter referred to as the 'Defendant'. The report, made by [Complainant], department head of [Department] (hereinafter referred to as: 'Complainant'), was submitted to the secretary of the Committee on [date]. The complaints in the report were assessed on the basis of the Netherlands Code of Conduct for Research Integrity 2018 and relate to:

- failure to provide co-author credit and seek co-author consent with regard to the following manuscripts:
 1. [manuscript 1]
 2. [manuscript 2], submitted to [platform] as a full preprint manuscript online, not soliciting co-authors' permission with respect to these publications;
- non-compliance with the institution's policy with respect to data record keeping with in view of these publications;
- inappropriate use of institutional affiliations in manuscript 2; and
- using [departmental] data and publishing manuscripts after termination of the working relationship, while this was explicitly forbidden.

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

2.2 Complaint and procedure

On [date], the Secretary of the Committee received a notification from the Complainant and related documents. On [date], the complaint was declared admissible and a Committee was established by the Executive Board.

The Committee has worked in accordance with the Erasmus MC Scientific Integrity Complaints Procedure of March 2018. The applicable code of conduct for the research period investigated is the Netherlands Code of Conduct for Research Integrity 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. On [date], the Committee asked the Defendant for a written response to the complaint and on [date], the Committee asked the Complainant for additional explanations about the complaint. On [date], the Complainant provided additional information at the request of the Committee. On [date], the Defendant submitted a written response. On [date], the Committee met again to discuss the responses received.

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

3 Position of the parties

3.1 The Complainant's position, in summary

The Complainant states that the Defendant, a former employee, was guilty of research misconduct in two scientific manuscripts. According to the Complainant, Manuscript 1, entitled: [title], has been submitted by the Defendant for publication without notifying the last author, [name] (hereinafter referred to as: Supervisor). Because the Defendant already knew that he was not yet allowed to submit it, he secretly removed the Supervisor of the submitted manuscript, according to the Complainant. When this became known to the Supervisor, according to the Complainant, he stated several times in writing that this was inappropriate. Nevertheless, the Defendant published the manuscript in this form and subsequently submitted a second manuscript for publication entitled: [title].

In addition to removing the name of the Supervisor, according to the Complainant, the Defendant also did not request permission for publication from the other authors. They were to learn about the publication of Manuscript 2 by consulting the [journal] websites and the [platform] website. At an earlier stage, one of these authors, [name], had already explicitly warned the Defendant that he did not consent to the submission of the manuscript in its known form.

Regarding these publications, according to the Complainant, the department informed the Defendant at an earlier stage that there were concerns about the way in which the Defendant recorded his data in lab journals. The Complainant states that within the department they were concerned that the data collected by the Defendant was not recorded according to the applicable institution's policy. An internal expert reviewed the Defendant's lab journals and indicated that there was cause for concern. The Defendant, after being confronted with these concerns, stated in writing that he considered the issues raised to be unimportant, according to the Complainant. The complainant says that the concerns have been referred to an independent adviser from another university. This adviser suggested that the data concerned had to be reprocessed and analyzed before publication could be considered appropriate. The Complainant says that the Defendant informed him in writing that he would not follow this advice.

In addition, according to the Complainant, the Defendant only used data generated in [institution] for the manuscripts. Nevertheless, the Defendant links manuscript 2 with the [department] of [other institution] and the [yet another institution]. The Complainant further states that the Defendant made this submission after [date], the date on which the Defendant confirmed that he had received the email stating that the working relationship between the Defendant and the [department] of [institution] had been officially terminated and in which he was also informed that he was not allowed to use and/or supply the data from the experiments collected during his stay at [institution] for presentation and/or publication.

3.2 Defendant's position, summarized

Defendant argues that the complaint about incorrectly stating co-authorships is contrary to the facts. In the publications, the Defendant says, he has always listed the correct co-authors. Defendant states that he

has always kept Supervisor informed of his submissions with his [institutional] mail or his [other institution] mail. Defendant argues that Supervisor did not respond to that and did not really contribute to the manuscripts. After Supervisor closed the Defendant's email account, the Defendant felt that he should remove Supervisor's name from the manuscripts. However, the Defendant says that he cannot prove this properly if he does not have access to his work email.

Defendant says that the complaint about not asking the co-authors for permission to publish is inconsistent with the facts. He has received permission from all co-authors. He has asked for this permission, also from [author], via email from the [other institution]. He can't recall getting a negative response from the co-authors. However, the Defendant says that he cannot show the emails, because he no longer has access to that email account.

The complaint about non-compliance with the institution's policy with regard to keeping data is also contrary to the facts, according to the Defendant. All experiments were reviewed and approved by Supervisor, Defendant says. Defendant says that, in addition, [co-worker] and [author] supervised his experiments, including the storage of the data. It concerns a period of 3 years, so if something inappropriate had happened during that time, they should have reported it at that time, says the Defendant. But at that time, no one pointed out to the Defendant that there were concerns about the data files. Supervisor has approved all of his experiments and necessary resources and equipment, he says. Furthermore, he says, he went through the database with Supervisor more than once before Supervisor prepared the manuscript himself, and was not asked a single question. Based on confidence in the data, Supervisor prepared the manuscript with the data and submitted the manuscript successively to 5 journals, Defendant says, with the co-authors approving all submissions, thereby confirming to the journals that the data files were okay.

Defendant finds the complaint about the incorrect use of affiliates incomprehensible. In [month, year], his employment contract with the [department] of [institution] ended. He then started his new work at the [department] of [other institution]. Because his research group also has a lab in [yet another institution], he has also mentioned this in the articles. During his work period at the [these institutions], in addition to studying [area of] research, he also prepared, submitted and revised the manuscripts. That is why he has used [these institutions] as his affiliates. Defendant argues that because access to his [institutional] email was wrongly terminated, he needed an academic e-mail for the submissions. He states that he could only use his [other institution's] email address for the submissions. Yet he still mentioned the [department] and [institution] as the first affiliation in all articles.

The complaint about the use of data and publications of manuscripts after the working relationship has ended is also contrary to the facts, according to the Defendant. He was informed, he says, that the working relationship with him was to end on [date]. However, he submitted manuscript 1 to [journal] on [date], earlier than the date he was notified. In addition, he also informed Supervisor about the submission of manuscript 2, says the Defendant. He asked whether Supervisor had any objections, but he has not received a response from him. As for manuscript 2, the Defendant claims to have followed the same route.

4 Findings, considerations and conclusions of the Committee

4.1 Regulations

The Committee investigates reports of (possible) violations of research integrity on the basis of the Complaints Procedure of [institution], which have been declared applicable to this case. In this case, the Committee advises the Executive Board. The complaint relates to events and publications after October 2018, as a result of which a violation of research integrity must be defined as acting or omission in violation of the standards as specified in the Netherlands Code of Conduct for Research Integrity 2018.

A violation of the standards of conduct does not by definition lead to a violation of research integrity. Careless conduct may occur without resulting in a violation of research integrity. Not every unintentional mistake or carelessness can be regarded as a violation of research integrity. The Code of Conduct therefore provides guidelines for assessing whether 'weighing' or the qualification 'violation' is appropriate. Weighting criteria include:

- a. the extent of the non-compliance;
- b. the level to which non-compliance was intentional and whether it was a form of gross negligence or was the result of carelessness or ignorance;
- c. the possible consequences for the validity of the research in question and for the prevailing scientific knowledge and scholarship;
- d. the potential effects on the trust in scientific and scholarly research and between researchers;
- e. the potential impact on individuals, society and the environment;
- f. the potential benefits for the researcher or other interested parties;
- g. whether the matter concerns a scientific or scholarly publication, as opposed to a popularizing article, teaching materials or an advisory report;
- h. opinions within the discipline(s) concerning the severity of the non-compliance;
- i. the researcher's position and experience;
- j. the extent of any prior violations committed by the researcher;
- k. whether the institution itself has failed in its duties of care;
- l. how much time elapsed before action was taken against the non-compliance within or outside the institution.

4.2 Failure to properly list co-authors

The Netherlands Code of Conduct for Research Integrity 2018 lists the following standards with regard to authorships that could apply here:

Standard 29: Do justice to everyone who contributed to the research and to obtaining and/or processing the data.

Standard 30: Ensure a fair allocation and ordering of authorship, in line with the standards applicable within the discipline(s) concerned.

Standard 31: All authors must have made a genuine intellectual contribution to at least one of the following elements: the design of the research, the acquisition of data, its analysis or the interpretation of findings.

The Complainant links this part of the complaint to not mentioning or removing Supervisor's name. In both manuscripts, Supervisor has not been identified as an author by the Defendant. The Defendant's defense is that he always informed Supervisor about the publication, but that Supervisor did not respond to it. The Defendant further argues that the removal of the name was justified because Supervisor had not contributed to the submitted manuscripts and because he had terminated his [institutional] e-mail account. The Complainant provides documentation to substantiate this part of the complaint. Defendant says he cannot provide additional documentation unless he has access to his work email.

The Committee is of the opinion that the Complainant has sufficiently substantiated that Supervisor contributed to the creation of the manuscripts to justify authorship. In the e-mail conversations that the Committee has been able to see, it appears that there has been a lot of consultation to improve the manuscripts. Manuscript 1 has already been submitted in previous versions prior to the intended submission, with Supervisor as author. In addition, the Defendant himself indicates that Supervisor must be an author by inviting him to co-write and respond. Defendant's defense that Supervisor did not contribute therefore does not stand. Also, the argument that the Defendant had to remove the author after

his work email was blocked is not a reason not to name an author on a manuscript, but rather the evidence that the Defendant himself initially thought that the Defendant was entitled to authorship. The Committee therefore considers this part of the complaint to be well-founded.

4.3 Not asking for consent from co-authors

Standard 32 in the Code of Conduct states: *All authors must have approved the final version of the research product.*

The Complainant says that the Defendant did not request permission from the co-authors for both manuscripts. The Defendant's defense is that he did ask the consent of the co-authors. The Defendant says that he cannot prove this because he cannot access his e-mail. It does not appear from the documentation supplied by the Complainant – containing a large amount of e-mail correspondence to and from the Defendant – that the Defendant has requested consent for the submission of the present manuscripts.

The Committee notes that it is not clear from the available documentation whether or not the Defendant has requested consent for the submission of the present manuscripts. [Journal], as far as the Committee can ascertain, does not require all authors to sign or receive an email confirming their authorship. The Committee must rely on the fact that the department took action when they became aware of the submission and requested that it be withdrawn. In addition, it appears from the e-mail conversations that the Defendant had previously submitted manuscript 1 to another journal, for which he had not requested permission, and that he had been expressly advised not to do so again. The Committee therefore considers this part of the complaint to be well-founded.

4.4 Non-compliance with the institution's policy with respect to data record keeping

In the Code of Conduct, there are standards for conducting research with integrity with regard to record-keeping that could apply to this part of the complaint:

Standard 16: Conduct your research accurately and with precision.

Standard 21: Do not remove or change results without explicit and proper justification. Do not add fabricated data during the data analysis.

Standard 24: Manage the collected data carefully and store both the raw and processed versions for a period appropriate for the discipline and methodology at issue.

The Complainant indicates that in [month, year] there were already doubts about the data used by the Defendant for manuscript 1. Because the Defendant did not take any action on this, the concerns expressed by the external referees have not been allayed. Defendant's defense is that the data used has already been seen and reviewed by the authors at an earlier stage, and even submitted at an earlier stage of manuscript 1, and that no doubts were expressed about it at the time.

The Committee finds that there is indeed documentation showing that the department has expressed concerns to the Defendant about the accuracy of the data used by him. Those concerns arose after the first submissions (i.e. prior to the unauthorized submission of manuscript 1). The Defendant's defense therefore does not stand. Defendant has not allayed the concerns, and has even rejected them in writing without further investigation. The Committee is therefore of the opinion that this part of the complaint is also well-founded.

4.5 Inappropriate use of institutional affiliations

The Complainant states that the Defendant specifies two institutes as affiliations in manuscript 1, while the Defendant's activities at these institutes did not contribute to the data collected for the manuscript. The

Defendant's defense is that this is incorrect, because at the time of submission he was working at [other institution] and that his research group had a lab in [yet another institution].

The Committee states that an affiliation to a manuscript is first and foremost intended to indicate the institution within which the majority of the work was performed. The data from manuscript 1 is demonstrably only collected during activities at [institution]. In a written response dated [date], the [other institution] indicates that the affiliation with their institute is incorrect because no experimental work for this study has been performed in the labs of [other institution]. The [third institution] wrote in a letter to the editor-in-chief of [journal] that Defendant had no connection with [their institution] and the parent organization and the affiliation must be corrected. The Defendant's defense therefore does not stand. The Committee therefore considers this part of the complaint to be well-founded.

4.6 Using [department] data and publishing manuscripts after termination of the working relationship, while this was explicitly forbidden

The Complainant states that the Defendant was prohibited from using the data for publication. Defendant's defense is that he submitted manuscript 1 before the ban was imposed on him.

It appears from the documentation provided that the Department sent Defendant a letter via email on [date] informing him that the collaboration was ending. Defendant acknowledged receipt of this letter on [date]. Defendant himself says that manuscript 1 was already submitted on [date]. The Committee notes that on the still available online version of the manuscript, the date of receipt at the journal is noted as [date]. This date indeed predates the relevant letter from the department. The Committee therefore considers this part of the complaint for manuscript 1 to be unfounded. According to the Committee, however, this does not apply to the submission of manuscript 2.

In the view of the Committee, there is no standard in the Code of Conduct specifying what is and is not appropriate in the use of data after the termination of a working relationship. In the Committee's view, the generally applicable standards for publications are therefore based rather on institutional agreements regarding ownership of data. It is quite common to submit manuscripts after termination of working relationships or contracts, as long as there is consensus among all co-authors. The Committee is of the opinion that in this case there is more likely to be a submission without consent, and this makes this part of the complaint comparable to part of the complaint 4.3, and also well-founded.

5 Conclusions and advice from the Committee

In view of the foregoing, the Committee concludes that the Defendant has insufficiently complied with the principles and standards as formulated in the Code of Conduct.

The Committee therefore advises the Executive Board to declare complaint parts 1-4 well-founded and complaint part 5 partly well-founded.

Of the aforementioned standards of the Code of Conduct (16, 21, 24, 29-32), which apply to the actions of the Defendant, the Code of Conduct only mentions a violation of standard 30 (mentioned at 4.2) as a possible basis for the qualification 'violation of research integrity', depending on the outcome of the weighing. Non-compliance with the other standards can only exceptionally lead to the qualification 'violation', but can lead to the qualification 'questionable behaviour' or, in the least serious cases, 'minor shortcoming'.

The Committee considers that the Defendant's non-compliance with said standards was intentional or was a gross form of negligence, and that the Defendant more often failed to comply with the standards. The Committee is therefore of the opinion that the Defendant's actions as referred to in part 4.2 of the

complaint qualifies as a 'violation of research integrity', and that the actions referred to in the other parts of the complaint that are considered to be well-founded qualify as 'questionable behaviour'.

6 Initial decision of the Executive Board on December 15, 2021

The Executive Board follows the advice of the Committee and concludes the allegations 1-4 are well-founded and allegation 5 is partly well-founded. The Executive Board supports the decision of the department to withdraw the publications submitted without permission. The Executive Board also supports the decision to end the working relationship between the department and the Defendant.

7 LOWI

The Defendant asked the LOWI for advice about the initial decision. He argues that he was wrongly not orally heard by the Committee either in person or via an online session. The LOWI considers that the Defendant was wrongly not heard orally. The fact that the Committee considered it to be sufficiently informed on the basis of the file is insufficient reason to refrain from hearing. The hearing not only has the function of providing information for the Committee, but also aims to enable those involved to express themselves orally. The Defendant has not been able to do so with regard to the complaint against him. The LOWI also considers the outbreak of the Coronavirus insufficient reason to refrain from hearing. The Defendant rightly pointed out in this regard that an online hearing would also have been possible.

The LOWI assessed whether the Defendant should still be heard and independently assessed the complaint on which the initial decision is based on the basis of the available documents. The LOWI took into account the Defendant's position in this regard. With the exception of the comment that he was wrongly not heard, that position contains nothing (relevant) new. The Defendant does not indicate what he would have wanted to put forward orally to the Committee. He also does not clarify on which point the Committee's advice is incorrect in his opinion. In his submissions to the LOWI, the applicant mainly made allegations against various persons. However, the LOWI has not found any basis for those allegations in the documents submitted by the Defendant.

The LOWI endorses the Committee's advice that the Defendant has violated scientific integrity with regard to part 1 of the complaint and that he has exhibited questionable behavior with regard to the other parts of the complaint. On the basis of the documents exchanged with him, the LOWI is furthermore convinced that hearing the Defendant can no longer reasonably lead to other insights that should lead to the initial opinion having to be changed. At this stage, in which the Defendant has not submitted any facts to the LOWI in the second instance that give reason to judge the complaint differently than the Committee did, hearing the Defendant - purely to do justice to the principle that an accused scientist must be able to put forward his point of view orally, therefore it is no longer necessary.

On August 4, 2022, the LOWI:

- I. declares the request justified;
- II. advises the Executive Board to adopt the initial decision unchanged as the final decision;
- III. advises the Executive Board to provide feedback to the Committee that in future cases an accused scientist should be heard orally in accordance with the Reporting Regulations.

The complete advice of the LOWI will be published on their website.

8 Final decision of the Executive Board on August 17, 2022

The initial decision of the Executive Board became the final decision on August 17, 2022.