

## Summary of LOWI opinion 2018-03

Keywords: duty to forward to Research Integrity Committee (RIC), procedural and substantive review by LOWI, academic practice, performance interviews

Relevant provisions: Article 8.3 of the LOWI Regulations, Elaborations 1.7 and 1.8. of the Netherlands Code of Conduct for Academic Practice.

Board involved: Executive Board, Radboud University

### *Petition*

In 2017, the Petitioner filed a complaint against the RIC, the confidential advisor, the dean, his PhD supervisor, and the Board of Radboud University Nijmegen, who were involved in dealing with a complaint submitted to the Board about the Petitioner in 2014. According to the Petitioner, these persons acted in breach of the Netherlands Code of Conduct for Academic Practice during the complaint proceedings.

### *Decision by the Board*

The Petitioner's current complaint concerns the complaint proceedings in 2014. The Petitioner could have submitted the decision of the Board to the LOWI, but did not do so. The proceedings then terminated, so that the Board's decision can no longer be reviewed. The Petitioner's current complaint was not forwarded to the RIC.

### *The Petitioner's most relevant objections are as follows:*

The Board failed to comply with the institution's Complaints Procedure because it did not forward his complaint to the RIC. The power to rule on admissibility is reserved to the RIC. The RIC arrived at decisions in favour of the complainant in 2014 and acted in violation of scrupulousness, impartiality, and reliability.

### *The most relevant considerations in the LOWI's opinion:*

- As regards the (mandatory) forwarding of the complaint to the RIC, it is irrelevant whether the complaint had a chance of success or whether the principles of the Netherlands Code of Conduct for Academic Practice were applicable. In the event of an alleged violation of research integrity, the Board should have forwarded the complaint to the RIC. Whether there is a case of academic practice and consequently reviewing under the Netherlands Code of Conduct for Academic Practice must take place is a substantive judgment that can only be rendered after an opinion from the RIC. Although it is the Board that has final responsibility for the decision, the Complaints Procedure provides for the mandatory involvement of the RIC.
- In view of the progress of the proceedings, the LOWI has issued a substantive opinion on the current complaint pursuant to Article 8.3 of the LOWI Regulations. The complaints about the confidential advisor and the RIC (i.e. members of the RIC) are exclusively about an action in the context of the 2014 complaint. This is also the case in the Petition and further messages to the LOWI. The Petitioner considers that there was no reason to submit these complaints to the LOWI because the complaint had been declared unfounded in 2014. The LOWI does not concur with the Petitioner in that regard: the LOWI not only examines whether a

decision on an integrity complaint is correct in terms of substance but also whether the decision was arrived at in the correct manner. The Petitioner could have submitted a Petition to the LOWI within six weeks from the date of the 2016 decision.

That was not done, so that the Petitioner can no longer bring up the actions of the confidential advisor and the members of the RIC for discussion because the proceedings have come to a final end. The components of the complaint directed against the confidential advisor and the members of the RIC are inadmissible. In the opinion of the LOWI, the complaints about the dean and the PhD supervisor are also inadmissible for the same reason.

- The components of the complaint about impeding of the progress of the Petitioner's PhD by the dean and the PhD supervisor do not directly relate to the 2014 complaint and are admissible. However, the Petitioner has failed to substantiate these components of the complaint, so that there is no reason to declare those components to be well-founded. Furthermore, some of the conduct falls outside the scope of the Netherlands Code of Conduct for Academic Practice because there is no question of academic practice.

LOWI ruling and opinion:

The LOWI finds that the Petition is well-founded in so far as it concerns the complaint not being forwarded to the RIC. The complaints regarding the confidential advisor, members of the RIC, the dean, and the PhD supervisor are inadmissible. The complaints about the dean and the PhD supervisor in relation to the Petitioner's PhD are unfounded.

If the Board considers that the LOWI's opinion can support its decision, the LOWI advises that the decision be based on this opinion.

If the Board considers that the LOWI's opinion cannot support its decision, the LOWI advises that the complaint be forwarded to the RIC, for it to be dealt with by the latter.

Final decision by the Board:

The Board decided to adopt the LOWI's opinion and to declare the Petitioner's complaints inadmissible or (manifestly) unfounded.