

Summary of LOWI decisions 2018-11, 12, 13, 14 and 15

Keywords: abuse of the right to complain, abuse of the right to submit a petition, pattern of behaviour of the Petitioner

Relevant provisions: article 3:13 and 3:15 of the Civil Code, article 8, first paragraph, under a, of the LOWI Regulations 2018

Board involved: Executive Board, Open University (2018-11), VU University (2018-12), Leiden University (2018-13, 2018-14) and Tilburg University (2018-15)

Petition

The five petitions regarding:

- The fact that the Interested Party refused to name sources in a specific statement and plagiarized in a book (2018-11);
- Not mentioning three additional functions on the university homepage by the Interested Party (2018-12);
- Permitting the misconduct of colleagues, not mentioning two additional functions and e-mailing various individuals with regard to a review of an article of the Petitioner (2018-13);
- Covering up a complaint about the Confidential Counsellor for Research Integrity (2018-14);
- The e-mail on behalf of the Rector in which it is announced that there will be no reply to the Petitioner's messages, the observation that the Petitioner is threatening an individual in performance of his duties and the announcement that legal measures will be taken if the Petitioner decides to publish a 'black list' that contains the name of the Interested Party (2018-15).

Opinion of RIC and decision by the Board

- In 2018-11, the RIC has advised the Board to rule the complaint unfounded because the first complaint component is not factually substantiated. Furthermore, all references in the relevant texts are correct and complete. The Board has decided in compliance with the RIC advice.
- In 2018-12, the RIC has advised the Board to rule the complaint unfounded because the relevant person is not formally connected to the VU University, thus the sectoral regulation with regard to additional positions is not applicable. There is no obligation to inform the VU University as former employer about additional positions. The Board has followed the RIC advice in its proposed decision.
- In 2018-13, the RIC had advised the Board to rule the complaint inadmissible because it does not concern a violation of the principles of research integrity. The Petitioner does not agree with the conclusion of the RIC that there is no fraud in a publication. The complaint with regard to the additional positions is factually incorrect and the e-mail about Petitioner's article is not considered a scientific review. The Board has decided in compliance with the RIC advice.
- In 2018-14, the RIC has advised the Board to rule the complaint inadmissible because it does not concern a violation of the principles of research integrity. In this case, no substantive review will

be conducted, neither will the Board be advised. The Board rules the complaint inadmissible in compliance with the RIC advice.

- In 2018-15, the RIC has not advised the Board. On behalf of the Rector Magnificus and the Board, the secretary of the RIC has sent word to the Petitioner that there has been no violation of the principles of research integrity, that it is completely unclear what the accusations of the Petitioner relate to, that the Board agrees with the content of the relevant e-mail and that it will not reply to new messages of the Petitioner.

The Petitioner's most relevant objections are as follows:

- In 2018-11: Objections against the composition of the RIC, the actions of the members of the RIC and particularly the chair's actions.
- In 2018-12: Petition to the LOWI to investigate various people and subjects, and a publication of another researcher who is not involved in the LOWI procedure.
- In 2018-13: Objections against the composition of the RIC, petition to investigate the withdrawal of a fraudulent scientific publication, petition to receive affirmation of the members of the LOWI to fully cooperate in withdrawing this scientific publication.
- In 2018-14: Objections against the handling of the complaint about the Confidential Counsellor which should have been ruled based on its content, objections against various members of the RIC and their membership, the necessity of including members of the RIC in a public 'black list' and the termination of the appointment of the Confidential Counsellor and various petitions to the LOWI.
- In 2018-15: Petitioner petitions the LOWI to rule his complaint founded. Moreover, he petitions the LOWI to distance itself from the e-mail on behalf of the Rector and the Board. When his petition is rejected by the LOWI, the Petitioner will argue that there has been a conflict of interest.

The most relevant considerations in the LOWI's opinion:

- The competence of the LOWI to issue an opinion serves the public interest of integrity of academic practice. However, the possibility of abuse of one's competence to submit a petition exists. Once the LOWI establishes abuse of competence, article 3:13 of the Civil Code, in conjunction with article 8, first paragraph, under a, of the LOWI Regulations 2018 allows the LOWI to decide not to consider the petition, or to discontinue consideration of the petition. No opinion from the LOWI will then be issued to the Board.
- Due to the importance of the integrity of academic practice and the procedure of the LOWI, which is considered as easily accessible, the LOWI is very reluctant with regard to constraining its competence to issue an opinion. For doing so, the LOWI should have serious reasons. In this case, the LOWI considers these reasons to be of such seriousness given the Petitioner's pattern of behaviour and the goal of his petitions.
- The ruling on the complaint of Petitioner has frequently led to a new complaint of Petitioner concerning a different person or institution. In the past, the Petitioner has submitted seven petitions and filed a complaint about the former LOWI secretary. In this case, the Petitioner has submitted five petitions and filed a complaint about the deputy secretary of the LOWI. The

multitude of his petitions as well as their extensiveness take up such an amount of the (limited) capacity of the LOWI that the scrupulousness of the consideration of other petitions is at stake. Moreover, the Petitioner does not adhere to the procedural instructions of the LOWI.

- The LOWI states that the balance between the interests that would be served when the petitions are being considered and the structural load that their consideration entails for the LOWI, is disproportionate. Based on all this, the LOWI concludes that the Petitioner has abused the right to submit a petition.
- The various petitions are meant to draw attention to objections of the Petitioner against a certain scientific publication, with the intention that the publication is withdrawn. Furthermore, the petitions contain different questions and requests that fall outside the scope of the competence of the LOWI. For example, the Petitioner attempts to get hold of documents that have been refused by others, or he requests the LOWI to investigate subjects that are not (directly) related to the subject of the complaint. The Petitioner uses his right to submit a petition for another goal other than what the LOWI's competence to issue an opinion is meant for. This results in an abuse of the right.
- The LOWI concludes that the Petitioner also uses his right to submit a petition as an instrument of pressure. When the Petitioner finds that his needs are insufficiently met or he believes that he is treated wrongly, this is reason for a complaint procedure. Such actions have the consequence that the people whom it concerns are harmed. The Petitioner even went so far that he has been informed that legal remedies are being considered.

LOWI ruling and opinion:

The petitions are manifestly unfounded and are not (further) considered. Any further petitions and complaints of the Petitioner will be judged by the LOWI under article 3:13 of the Civil Code.