Summary of LOWI opinion 2019-04

Keywords: authorship, intent, language of communication for LOWI proceedings, thesis

Relevant provisions: article 2:6 General Administrative Law Act, article 3, 4 and 5 of the Delft University of Technology Regulations on Academic Integrity Complaints, ALLEA European Code of Conduct

Board involved: Executive Board, TU Delft

Petition
According to the Interested Party, a manuscript based on the master thesis of the Interested Party has been submitted for publication by the Petitioner. No prior consent, nor prior perusal by the Interested Party has taken place before submission. Furthermore, the submitted manuscript contains the name of a third author who was not involved in the master thesis of the Interested Party. The Petitioner has presented the thesis at a symposium.

Opinion of the Research Integrity Committee (RIC) & decision by the Board
The RIC considers the failure to obtain consent of the Interested Party before the submission for publication and the presentation as negligent, however, not as plagiarism or intentionally ignoring and failing to acknowledge contributions by other authors. The RIC states that the Petitioner has wrongly presented himself as first author, while he is co-author, and that he has included a third, to the Interested Party unknown, author in the manuscript. The advice to the Board is to rule the complaint founded insofar it concerns the inaccuracy of authorship. The Board decides to comply with the advice of the RIC.

The Petitioner's most relevant objections are as follows:

- The RIC has pointed out the interests of the Interested Party with reference to article 2:6 of the General Administrative Law Act (Awb), however, it ignored the interests of the Petitioner by failing to translate the procedural documents in a language the Petitioner can understand.
- The Petitioner states that he did not act in bad faith. The RIC did not consider whether the contribution of the Interested Party was ignored deliberately (LOWI opinion 2016-09).

The most relevant considerations in the LOWI's opinion:

- Pursuant to article 2:6 of the General Administrative Law Act, administrative authorities and persons working under their responsibility shall use the Dutch language, orally and in writing. Another language *may* be used if its use is more effective and the interests of third persons are not disproportionately harmed. The LOWI considers that the RIC has justifiably ruled that given the submission of a complaint by a Dutch complainant, switching to the English language would harm the interests of the complainant.
- The LOWI agrees with the RIC that Petitioner acted contrary to the Regulations on Academic Integrity Complaints, in particular in violation of the 5th principle which reads:

"wrongly presenting oneself as (co-)author". The description of this principle does not include 'intent', which means that intent or bad faith do not have to be established for the the judgment that the principle has been violated. The LOWI opinion 2016-09 is not able to support the objection that the research integrity has not been violated due to the lack of intent.

LOWI ruling and opinion

The Petition is ruled unfounded. The LOWI advises the Board to adopt its proposed decision unamended as its final decision.

Final decision by the Board

The Board complies with the advice of the LOWI and adopts its proposed decision as its final decision.