

ENGLISH TRANSLATION OF THE DUTCH VERSION

Scientific Integrity Committee (CWI) case 2021-04 – summary of the complaint

“Conflicts of Interest and Freedom of Speech in Public Debate”

Final decision: 26 September 2022, unfounded

1. The complaint

Complainant accuses Defendant, as a result of statements about the reliability of the ... reports, of violations in the field of scientific integrity, in particular the standards 53, 54 and 55 of the Netherlands Code of Conduct for Scientific Integrity (hereinafter: the Code of Conduct), namely:

53. *“Be honest in public communication and clear about the limitations of the research and your own expertise. Only communicate to the general public about the research results if there is sufficient certainty about them.”*
54. *“Be open and honest about your role in the public debate and about the nature and status of your participation in it.”*
55. *“Be open and honest about potential conflicts of interest.”*

The Complainant also submitted the following question to the CWI: *“A more generic violation concerns the question whether the fact sheet qualifies as a scientific study or whether a qualification such as, for example, an opinion piece would have been more appropriate here.”*

Defendant concludes that he has expressed methodological criticism with the fact sheet and that the fact sheet fits well with his methodological expertise (art. 53) and experience, he has been completely open and honest (art. 54) and he has no conflict of interest (art. 55).

The CWI sees the fact sheet as a popular scientific publication; this must therefore meet the requirements laid down in the Code of Conduct.

2. Advice CWI

With regard to the assessment of compliance with standard 53, the Committee takes into account that the fact sheet is regarded as a popular scientific publication. The Defendant's conclusion should not have gone further than, for example, that use has been made of information sources that may have been influenced by interests involved in the subject matter, that it is unclear to what extent that influences the content of the ... report and that, in view of the past experience in other sectors (...), it is necessary to investigate this further in order to make transparent agreements on that basis, if necessary, in order to prevent unfair influence. The CWI is of the opinion that in both categories of utterances (particularly in the factsheet and to a lesser extent in newspapers and magazines) there is non-compliance with standard 53, in particular with regard to limitations in the research, which can lead to conclusions about deliberate influence by the ... premature, because they are unfounded – viewed in conjunction with standard 38. With regard to the weighing of deficiencies in compliance with standard 53, also in the light of standard 38, the Committee is of the opinion that on the basis of the relevant weighting criteria, in particular criteria b. (intent?), c. (state of the art), e. (impacts/benefits for individuals) and g. (nature of the statements), there has been no violation (scheduling) of scientific integrity. With regard to the question whether, for that matter, there is a less drastic non-compliance with standards of scientific integrity, the Committee makes a distinction between the statements in the fact sheet and the statements in newspapers and magazines.

With regard to the fact sheet, the Committee qualifies as non-compliance with standard 53, partly in the light of standard 38, as well as with weighting criteria d. (effect on trust in science) and i. (position of the researcher), as questionable behaviour. The Commission tends to classify the statements in newspapers and magazines as a minor shortcoming, given the publication of a fact sheet with an unfounded conclusion in combination with subsequent contact with the media, without asking for

guidance or advice from communication staff of the UT. This means that the risk has been taken that the conclusions in the fact sheet would dominate the media.

With regard to assessment of compliance with standard 54, the CWI has not been able to conclude that standard 54 has not been complied with.

With regard to the assessment of compliance with standard 55, the Committee takes into account that what is mentioned under A. and B. should have encouraged the Defendant to give a more transparent statement regarding his personal and social positions. According to the CWI, the Defendant, in the belief of his own (partly legally substantiated) understanding of an interested party, wrongly failed to put himself in the position of third parties and to that end, by providing more clarity, to remove the appearance of a conflict of interest or at least put third parties in a position to be extra critical. This is all the more important in this case now that the Defendant, in the opinion of the Committee, alleges ... of the same: insufficient transparency about possible conflicts of interest. In the Committee's view, non-compliance is limited to inadequate compliance with the duty of care to provide third parties with sufficient clarity in forming their opinion about possible own interests. With regard to the weighting of this lack of compliance, the Committee is of the opinion that there has been no violation – partly because of the unintentional silence about what others could reasonably consider to be a conflict of interest – but, moreover, that there was non-compliance. The CWI qualifies this non-compliance with standard 55 as a minor shortcoming. In doing so, the Committee has taken into account that the Complainant, ..., has also expressed uncertainty about what may be expected of the Defendant in this regard. The Commission's judgment will hopefully help to put an end to this lack of clarity in the future. It would be too far for the Committee to make a serious reproach to the Defendant if, as it now appears, the culpability was insufficiently recognized, even in the circle of Complainant authoritative for him.

3. Provisional decision EB

The Executive Board adopted the advice of the CWI in its provisional decision, which means:

- *“to declare the complaint **unfounded** to the extent that it alleges that the Defendant has violated standard 54 of the Code of Conduct,*
- *with regard to standard 53, also in the light of standard 38, to declare the complaint **well-founded** and to classify the non-compliance by the Defendant as questionable behavior with regard to the fact sheet, and as a minor shortcoming with regard to the statements in newspapers and Magazines,*
- *with regard to standard 55, to declare the complaint **well-founded** and to qualify the non-compliance by the Defendant as a minor shortcoming.”*

4. Advice LOWI

The defendant has asked the LOWI for advice. In summary, the LOWI advised as follows:

“Public debate

9. With his publication and media appearance, the applicant has contributed to the public debate about transparency in scientific publications that are used by the government to underpin policy. This is an important social issue, which is the subject of much public debate. The LOWI would like to point out in general that if a scientist intervenes in (sensitive topics in) the public and scientific debate, it should not be too quickly invoked by invoking the code of conduct that the scientist may have the scientific integrity violated. After all, the Petitioner is entitled to freedom of expression in the public debate, just like everyone else. In addition, higher education institutions consider it important that scientists get involved in the public debate. It is not the intention of the code of conduct that scientists shy away from interfering in the public debate because of a possible complaint about scientific integrity.

Publication of the Petitioner

10. The LOWI considers the following about the Petitioner's publication. The conclusion of the publication starts with a far-reaching statement about which there can at least be different opinions. However, the LOWI does not consider it correct to view this as a violation of a standard (or principle) from the code of conduct. In doing so, the LOWI takes into account the content of the entire publication (and not just the first sentence of the conclusion, which indeed raises questions) and the nature of the publication, which, as the Applicant has rightly emphasized, is primarily intended to initiate discussion. The LOWI therefore judges, unlike the CWI, that the Petitioner has not violated any standards of the code of conduct with his publication. There is no question of 'questionable behaviour'.

Media expressions of the Petitioner

11. In the opinion of the LOWI, the Petitioner has not violated any standards or principles from the code of conduct in his media statements, including an interview for the radio. The alleged personal interest to which the CWI refers, a possible ... in the 'backyard' of the Petitioner that he is opposed to, is far-fetched in this case. Transparency about possible personal interests is of great importance, but not unlimited. Moreover, it is appropriate to make a relativistic remark that every scientist has personal opinions. That does not mean that a scientist always has to make these public if he speaks out in public debate on those topics on which he has a personal opinion. According to the LOWI, the Applicant's social position as a member of the ... is also not something that the Applicant should have mentioned. The LOWI therefore judges, again in a different way from the CWI, that the Petitioner has not violated any standards of scientific integrity with his media statements. According to the LOWI, there is no question of a 'minor shortcoming'.

Conclusion LOWI

12. The request is well founded. The LOWI will advise the Board to declare the complaint against the Petitioner unfounded in its final decision."

[The complete LOWI advice can be read on the website of the LOWI, via www.lowi.nl, request 2022-14]

5. Decision EB

The Executive Board adopted the LOWI's advice in the final decision.

"The Executive Board has taken note of the LOWI's advice regarding the complaint submitted to the CWI with reference 2021-04. Concluding:

- that the CWI and the LOWI have different views;
- that academic freedom is paramount, in which situations are conceivable in which clarity is created about a perceived conflict of interest before scientists participate in the public debate, with the joint aim of safeguarding scientific quality and reputation;

the Executive Board decides to adopt the LOWI's advice with regard to the complaint and to declare the complaint **unfounded**, insofar as it states that the Defendant has violated standards 53, 54 and 55 of the Code of Conduct."

The Executive Board schedules separate appointments with the Complainant, the Defendant and the CWI to further explain the final decision.

[The complete anonymized version of the complaint can be read on the UNL website, via www.universiteitenvannederland.nl/nl_NL/wetenschappelijke-integriteitcopy.html.]