D E C I S I O N

The Danish Committee on Research Misconduct

14 March 2019

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By email of 12 March 2018, the practice committee at the university (hereinafter the Research Institution) forwarded a complaint to the Danish Committee on Research Misconduct (hereinafter the Committee) filed by the complainant (hereinafter Complainant) regarding defendant 1 and defendant 2 (hereinafter the Defendants), wherein the Complainant alleges that the Defendants have committed plagiarism and fabrication and thereby committed research misconduct.

The Complainant alleges that the Defendants have plagiarised in

their product Article,

in two - possibly three - instances by wrongfully appropriating text, etc. without due credit to

Source 1,

in one instance by wrongfully appropriating text, etc. without due credit to

Source 2,

and in one instance by wrongfully appropriating text, etc. without due credit to

Source 3.

Furthermore, the Complainant alleges that the Defendants' product is largely a "misrepresentation of changes in the world", which could also be termed "construction of a development" or "fabrication of facts and research".

In summary, the Complainant alleges that the Defendants' product includes a total of 17 instances (that each may contain several issues) that can be attributed to the claim of research misconduct, including the four - possibly five - above instances of plagiarism, four instances of fabrication, six instances characterised by the Complainant as "misrepresentation", and a total of five instances of wrong, unclear, or missing references.

The Complainant has stated that the 17 instances were discovered during the Complainant's work on his PhD thesis.

This complaint is one of five complaints in total submitted by the Complainant. The complaints involve a total of ten people and six different products, all related to the reform of primary and lower secondary education in Denmark. In some of the complaints, the Complainant refers to appendices included with the other complaints.

The Committee's findings

At its meeting on 28 February 2019, the Committee decided that the Defendants have not committed research misconduct.

The decision was made unanimously by High Court Judge, Professor Jens Hartig Danielsen, LLD (Chair); Professor Hanne Andersen, PhD; Professor Dorte Hammershøi, PhD; Professor Jørn Hounsgaard, MD; Professor Anne-Mette Hvas, PhD; Professor Klemens Kappel, PhD; Director of Research Ole Kirk, PhD; Professor Helle Bødker Madsen, LLD; and Senior Advisor Anders Smith, PhD.

The Committee's grounds for the decision are given below.

The complaint of research misconduct

In support of the complaint regarding instances 1, 9, 11, 12, and possibly 6, the Complainant argues that these are verbatim quotes without attribution, mostly from the report written by source 1, which the Defendants co-authored, but also of source 2 and 3, which was also co-authored by the Defendants.

Regarding instance 11 and 15-17, the Complainant argues that they constitute fabrication of a definition and fabrication of experiences with competence objective management in other European countries. What has been constructed as documentation, "a piece of policy", in source 1 written by the authors for source 1, has been used in the Defendants' product without quotation marks. The unmarked inclusion means that the same statements are no longer presented as subjective experiences or constructed documentation, but instead appear to be objective, validated knowledge.

Legal basis

The case has been processed under the Danish act on research misconduct etc., cf. act no. 383 of 26 April 2017 (hereinafter the Act).

The Committee's authority is described in section 4(1):

> *The Danish Committee on Research Misconduct shall process cases concerning research misconduct in scientific products.*

It appears from the notes to section 4(1), cf. bill no. L 117 of 25 January 2017 (the Notes), that:

With the provision in (1), it is proposed to establish that the Committee on Research Misconduct processes cases of concerning research misconduct in scientific products. Research misconduct and scientific product are defined in section 3(1)(i) and (vi) of the Act: The purpose of the provision is to clarify that the Committee only has authority to process cases concerning research misconduct, and that the matters reviewed must be connected to scientific reporting, i.e. have occurred in a scientific product.

The definition of a scientific product appears from section 3(1)(vi) of the Act:

Scientific product shall mean: A product generated by means of scientific methods applied in research, including applications for research funding.

The following appears from the Notes to section 3(1)(vi) of the Act on the assessment of what constitutes a scientific product:

The definition suggested closely follows DCRM's practice in the field, in which a scientific product is characterised by being produced in the course of research work by using scientific methods in contrast to e.g. publications of a more popular nature, which do not have a similar scientific approach. The assessment of whether a product can be deemed a scientific product depends on a content-related assessment of the product's scientific character in which scientific articles, PhD theses and the like are the core area for this definition. One element in the assessment of whether the product is a scientific product within the meaning of the act will therefore often be whether the product in question is submitted for, or is intended to be submitted for, peer review.

Research misconduct is defined in section 3(1)(i) of the Act:

Research misconduct shall mean: Fabrication, falsification and plagiarism committed wilfully or with gross negligence when planning, performing or reporting on research.

Plagiarism is defined in section 3(1)(iv) of the Act:

Plagiarism shall mean: Appropriation of other people's ideas, processes, results, texts or specific concepts without giving due credit.

It appears from the notes on the Act, section 3.4.3.1, cf. bill no. L 117 of 25 January 2017 (the Notes) that

Self-plagiarism, i.e. the reuse of previously used subject matter without due credit, is not considered research misconduct.

Fabrication is defined in section 3(1)(ii) of the Act:

> *Fabrication shall mean: Undisclosed construction of data or substitution with fictitious data.*

It appears from the Notes to section 3(1)(ii) of the Act that:

> *The definition of fabrication is expected to include instances where a researcher uses constructed or fictitious data in research without disclosing that fact, which in turn may mean that the research is not based on the evidence submitted.*
> *Data is used here in a broad sense, i.e. including primary material, measurements, records, and results. The definition of fabrication is proposed without further qualification in terms of the undisclosed construction of data or substitution with fictitious data than what follows from the proposed triviality limit in section 3(2)(i) of the Act. I.e. all cases of undisclosed construction or substitution that fall below the triviality limit are included in the concept, cf. the legislative proposal.*

According to section 3(2)(i) of the Act, research misconduct does not include

> *cases of fabrication, falsification and plagiarism which have only had minor importance when planning, performing or reporting on the research*

It appears from the Notes to the Act's section 3(2)(i) that

> *Pursuant to (i) of the provision, it is suggested that research misconduct shall not include cases of fabrication, falsification and plagiarism which have only had minor importance when planning, performing or reporting on the research. This suggestion thus maintains the triviality limit in relation to research misconduct within the applicable law's definition of research misconduct, pursuant to which only serious breaches of good scientific practice are included in the definition, and in the applicable executive order on the DCRM, pursuant to which the DCRM may shelve cases in which the noted research misconduct has only had little importance to the scientific message in the product. Cases of little importance are expected to comprise e.g. plagiarism of insignificant passages in method sections and similar and entirely peripheral fabrications or falsification of a small extent, which has no effect on the research carried out. Depending on circumstances, such cases may be considered by the relevant research institution as questionable research practice, cf. section 3(1)(v) and section 19 of the act.*

According to section 3(2)(ii) of the Act, research misconduct does not include

> *matters relating to the validity of scientific theories.*

It appears from the comments to section 3(2)(ii) of the Act that

Pursuant to (ii) of the provision, it is proposed that research misconduct shall not include cases on the validity of scientific theories. It is essentially a continuation of the applicable law but with a linguistic modification to let the applicable law's reference to the truth of scientific theories be removed, since references to the validity, rather than the truth, of scientific theories is more accurate in a research context. The intention of the provision is to determine that disagreements about the research conclusions or the methodology applied, etc., shall not be considered research misconduct. The intention behind the bill is that the Committee on Research Misconduct shall not address whether any proposed theories or results in the scientific product pertaining to the case are correct from a research-discipline specific and scientific perspective, but rather to assess whether the research was produced through fabrication, falsification or plagiarism. The research-discipline specific and scientific evaluation of a scientific product shall continue to be conducted through peer review, etc.

According to section 3(2)(iii) of the Act, research misconduct does not include

matters relating to the research quality of a scientific product.

It appears from the Notes to section 3(2)(iii) of the Act that

Pursuant to (iii) of the provision, it is proposed that research misconduct shall not include cases concerning the research quality of a scientific product. It is a continuation of the applicable law pursuant to which research misconduct does not address the research quality of the scientific product concerned. Accordingly, the Danish Committee on Research Misconduct will continue to refrain from conducting any quality assessment of the scientific product concerned.

Under section 3(1)(v) of the act, the meaning of questionable research practice in the act is:

Violation of generally accepted standards for responsible research practices, including the standards in The Danish Code of Conduct for Research Integrity and other applicable institutional, national and international practices and guidelines for research integrity.

The Committee's option of forwarding to the relevant research institution such cases that concern issues on possible questionable scientific practice appears from section 17 of the Act:

In the event that the Danish Committee on Research Misconduct assesses that a case may involve issues concerning questionable research practices not considered by the Committee to constitute research misconduct, the Committee may refer such issues to the relevant research institution for further consideration.

The Committee's assessment of the case

The explanatory Notes of the Act state that the core area for the concept of a scientific product are scientific articles, PhD theses and the like, and that one element of the assessment of whether a product is a scientific product within the meaning of the act will therefore often be whether the product in question is submitted for or is intended for submission for peer review.

The product in question is an article in a journal. The journal's website states that the journal targets both teachers, school principals, and school administrators, who implement and shape educational policy, students of pedagogy or student teachers, as well as employees and researchers working within the field.

The website also states that the journal includes peer-reviewed articles about topical issues from the field of practice. The editor of the journal has stated that the article has undergone "peer review" and that it is a research paper.

In its evaluation of whether the product is a scientific product, the Committee has placed particular emphasis on the fact that the product has undergone peer review in connection with its publication. Furthermore, the Committee has taken into account that the Defendants' institutional affiliations and academic positions are stated in the article.

On this basis, the Committee finds that the article presents itself as a scientific work and that is therefore a scientific product under section 3(1)(vi) of the Act.

The complaint regarding plagiarism in instances 1, 6, 9, 11 and 12 argues that the Defendants are co-authors of the products from which the Defendants plagiarised, as alleged by the Complainant. In its evaluation of the complaint regarding plagiarism, the Committee has taken into account that the introduction of the scientific product states that the purpose of the product is to elucidate the "framework for the formulation of competence performance", and "the solutions chosen in terms of the Danish teacher education", and thereby report the work presented in the report from source 1 and in source 2 and 3. Furthermore, the Committee has taken into account that the scientific product clearly identifies the Defendants as leaders of the development of the three products from which the Defendants plagiarised, as alleged by the Complainant.

The Committee therefore finds that it is clear to the reader that the scientific product is intended as a recap and summary of the three products. On this basis, the Committee finds that the extent to which the Defendants have failed to credit source 1 and the two ministries in their scientific product is of negligible impact on the reporting in the scientific product. The Committee therefore finds that instance 1, 6, 9, 11 and 12 do not constitute research misconduct, cf. section 3(2)(i) of the Act.

According to the Complainant, instances 11 and 15-17 constitute fabrication. The Complainant states that the "subjective experiences/constructed documentation" presented in source 1 gains the status of "objective, validated knowledge" in the Defendants' scientific product. According to the Complainant, instances 3, 4, 5, 8, 13 and 14 constitute "misrepresentation of sources". On this basis the Committee reasons in the instances mentioned that the Complainant believes that the Defendants attribute other understandings or perceptions to the sources and materials than what the Complainant believes to be true.

Disagreements on conclusions of the research or the methodology used, etc., are not considered research misconduct. The Committee does not address whether the proposed theories results in the scientific product pertaining to the case are correct from a research discipline and scientific perspective, and the Committee does not conduct quality assessments of scientific products. Instances 11 and 15-17 and instances 3, 4, 5, 8, 13 and 14 therefore not constitute research misconduct, cf. section 3(2)(ii) and (iii) of the Act.

According to the Complainant, instances 2, 5, 6, 7 and 10 constitute wrong, unclear or missing references. It follows from section 3(1)(i) of the Act that research misconduct only occurs in instances where acts of fabrication, falsification, or plagiarism were committed intentionally or with gross negligence. Therefore, a wrong, unclear, or missing reference does not in itself constitute research misconduct. Consequently, and after an assessment of the information presented by the Complainant, the Committee finds that instances 2, 5, 6, 7 and 10 do not constitute research misconduct, cf. section 3(1)(i) of the act.

In conclusion, the Committee finds that the case does not constitute research misconduct, cf. section 16(1) of the Act.

Based on the particulars of the case, the Committee finds that the case may involve issues on questionable research practice. The Committee therefore forwards the case to the Research Institution for further consideration, cf. section 17 of the Act.

Appeals procedure

This decision is final and cannot be brought before another administrative authority, cf. section 18 of the Act.

Jens Hartig Danielsen
Chair of the Danish Committee on Research Misconduct