

DECISION

By email of 3 April 2019, the *Complainant* (hereinafter the Complainant) submitted a complaint to the Danish Committee on Research Misconduct (hereinafter the Committee) concerning the *Defendant* (hereinafter the Defendant), alleging that the Defendant had committed falsification in a product (hereinafter the Product) and thereby committed research misconduct and engaged in questionable research practices.

The Complainant alleges that the Defendant has committed falsification in:

Product,

by manipulating and omitting data, whereby the research appears misleading.

In summary, the Complainant alleges that the product contains a total of 57 instances that give cause for criticism, and to this has added another 52 instances that, according to the Complainant, are examples of legal issues and arguments that cannot be presented before the courts because the case administrators of the Danish Appeals Permission Board (Procesbevillingsnævnet) regard them as manifestly unfounded.

The Defendant has not made any statements regarding the case.

This complaint is one of seven complaints in total submitted by the Complainant. The complaints concern seven people and the same product.

The Committee's findings

The Committee decided to reject further examination of the case as it is not covered by the Committee's authority.

The decision was made unanimously by High Court Judge, Professor Jens Hartig Danielsen, LL.D (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, LL.D; and Head of Programme Anders Smith, PhD.

The Danish Committee on Research Misconduct

25 September 2019

The Danish Committee on Research Misconduct can be reached via:

The Secretariat of the Danish Committee on Research Misconduct: nvu@ufm.dk

The Danish Agency for Science and Higher Education
Bredgade 40
1260 Copenhagen K, Denmark
Tel.: +45 3544 6200
Fax (+45) 3544 6201
sfu@ufm.dk
www.ufm.dk

CVR no. 1991 8440

Case no.
2019-14

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

The Complaint of research misconduct

In support of his complaint, the Complainant argues that the Defendant has manipulated and omitted data as well as known and accessible knowledge about [...] presumed economic behaviour.

The Complainant further alleges that the Defendant knows and ought to know that legal methodology cannot be used to determine whether [...] considers rules of law to be economic instruments, and that the Defendant utilises the wrong “science”, i.e. law instead of economics, to assess [...] presumed economic behaviour. The Defendant shows open disregard of the science of economics in the product, when the ministry of [...] and thereby the Danish parliament, the media and the population are misled by pretending that [...] are “advisors”. The concept “advice” is openly and totally meaningless in scientific terms and does not exist, as the Defendant knows and ought to know, in the universe of economics.

The Complainant further argues that it is a serious and presumptively intentional error that the Defendant, in the product, fails to inform the ministry of [...] and thereby the Danish parliament, media and population of the fact that bank customers, cf. the practices of the Danish Appeals Permission Board (and the courts), lack the legal instruments to defend their rights, in case [...] makes non-statutory legal interventions.

The Complainant also argues that the Defendant does not attempt to delimit the subject of law from lawlessness, scientific theory, economics and redistribution policy in the product, regardless of his knowledge about the Danish Appeals Permission Board’s area of practice.

And finally, the Complainant argues that the Defendant’s product has no scientific basis.

Legal basis

This case has been processed under act no. 383 of 26 April 2017 on research misconduct, etc. (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 (hereinafter 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 proposed definition is based on DSCD's practices in this area, where a scientific product is characterised by its having been produced in the course of research employing scientific methods, in contrast to, e.g., popular science publications that do not adhere to scientific approaches to the same extent. The assessment of whether a product meets the definition of scientific product rests on an assessment of the scientific character of the product's contents, with scientific articles, PhD theses and the like being paradigmatic examples of products that fit 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.

The Committee's assessment of the case

The product indicates that the government then in office, in its governmental platform, decided [...] to explore the possibilities of compensation in cases where inadequate advice about [...] products cause the customer to incur a loss. A part of this examination was to focus on whether the general rules concerning burden of proof give the customer sufficient protection in situations where [...] companies have not complied with applicable regulations relating to [...] advisory services.

The product further states that the then minister of [...] consequently established a committee on liability for damages in connection to advisory services concerning [...] products. The committee was mandated to clarify the [...] rules vis á vis advice on [...] products, and to assess the issues in relation to the burden of proof in cases of realised financial losses as a consequence of inadequate advice.

The product also states that the committee had 12 members; the Defendant (defendant 1), *defendant 2* (the subject of a separate complaint by the Complainant), [...] *co-author 1*, [...] *co-author 2*, [...] *defendant 3* (the subject of a separate complaint by the Complainant), *defendant 4 and defendant 5* (both [...] subjects of a separate complaint by the Complainants), *co-author 3, co-author 4, co-author 5, defendant 6* (the subject of a separate complaint by the Complainant), and *defendant 7* (the subject of a separate complaint by the Complainant).

The product consists of an introductory chapter and a summary chapter, as well as a chapter describing existing law regarding advisory services for [...] products, a chapter containing statistics on complaints about advisory services lodged with select appeals boards, a chapter about [...] in Norway and Sweden, and a chapter about the committee's deliberations and recommendations.

On this basis, the Committee finds that the product, due to its context, its purpose, the composition of the committee that developed the product, its contents and the format in which the committee reported on its work, is not a scientific product produced in the course of research employing scientific methods, cf. section 3(1)(vi) of the Act.

The Committee therefore rejects further examination of the case as it is not covered by the Committee's authority, cf. section 13(1) of the Act.

Appeals procedure

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

The Committee deeply regrets the case processing time, which is mainly due to technical issues arising in connection with the transition from the Danish Committees on Scientific Dishonesty to the Danish Committee on Research Misconduct as well as a large replacement of staff in the secretariat.

Signature

Jens Hartig Danielsen
Chair of the Danish Committee on Research Misconduct