

2020-01 Plagiarism – unfounded, culpably negligent conduct

Translation advice Scientific Integrity Committee January 15, 2020

This text is an English translation of the Dutch original.

In case of any divergence of interpretation, the Dutch text prevails

ADVICE

regarding the request submitted by

Requester: **The Executive Board of Tilburg University**

versus

Person Concerned: *[name Person Concerned]*

In these proceedings, the Scientific Integrity Committee (CWI) of Tilburg University (hereinafter: **'the Committee'**) was composed as follows:

- Prof. A.M. Hol, LL.M. (Chair)
- Prof. A.C.M. Meuwese, LL.M (member)
- Prof. J. de Vries, LL.D. (member)

Secretaries:

- R.D. Harteman, LL.M.
- G.E. Verhagen

1. Introduction and contents of the request

1.1 In relation to the doctorate to be obtained by the Person Concerned, the Executive Board received reports of violation of scientific integrity. After receiving the reports, the Executive Board conducted an exploratory investigation of the facts. The contents of the reports and the exploratory investigation of the facts gave cause for more detailed investigation of the question whether the contents of the PhD thesis meet the generally accepted standards and principles of good academic practice and research practice, in particular the standards and principles relating to the reliability, honesty and scrupulousness of the reports on the research.

1.2 The Executive Board requests the Committee:

- a. To form an opinion on the question if the contents and realization of the dissertation of the Person Concerned results in a violation of scientific integrity, in particular the principles of reliability, honesty and scrupulousness and the elaboration thereof as described in 'The Netherlands Code of Conduct for Academic Practice, Principles of good academic teaching and research' (VSNU, 2014); and,
- b. In light of this request, also:
 - i. to judge on whether the promotion is in compliance with the PhD Regulations of Tilburg University; and,
 - ii. insofar as, in the Committee's opinion, there is cause to do so, to pay attention to the way in which shape was given by the PhD thesis supervisors to their supervision of the PhD candidate and assessment of the manuscript to reflect on the guidance of

the supervisors and the assessment of the manuscript if the CWI concludes that its opinion calls for this reflection and to advise the Executive Board on the basis of this.

- 1.3 The Person Concerned defended his PhD thesis entitled [*title PhD thesis*] at Tilburg University on [*date defense*], in order to obtain his PhD. His PhD thesis supervisors were [*PhD supervisor 1*] and [*PhD supervisor 2*]. The Person Concerned is presently the [*position*] in [*name country*].

2. The inception and course of the proceedings

- 2.1 On September 2, 2019, the Dean of Tilburg School of Economics and Management (hereinafter: “**TiSEM**”) and the Vice-Dean of TiSEM received notifications from students and doctoral candidates of TiSEM with a [...] background about reports in [...] media of plagiarism in the PhD thesis of the Person Concerned.
- 2.2 On September 5, 2019, staff of TiSEM received an e-mail from [*journalist 1*]. He wanted to inform the staff of TiSEM that, in his PhD thesis, the Person Concerned allegedly plagiarized three Master’s theses. This concerns the Master’s theses of [*masterstudent 1*], [*masterstudent 2*] and [*masterstudent 3*]. The aforementioned students had the Person Concerned as their thesis supervisor and they currently work with him or worked with him in the past. According to [*journalist 1*], text passages, figures and tables from the Master’s theses were taken over without mentioning the sources. Argumentations from the Master’s theses were also taken over almost identically. [*Journalist 1*] is of the opinion that the PhD thesis of the Person Concerned is not his own work. He stated as well that the matter had received attention in the [...] media, via [...]. It was said in [...] media that the Person Concerned allegedly plagiarized 200 lines and 30 diagrams/graphs. [*Journalist 1*] stated that it is Tilburg University’s task to investigate this matter and take appropriate measures.
- 2.3 On September 7, 2019, the confidential advisor for Scientific Integrity reported to the Rector Magnificus on a confidential report that he had received regarding a (suspicion of) plagiarism by the Person Concerned.
- 2.4 On September 9, 2019, the former Rector Magnificus, among others, received an e-mail from [*journalist 2*] (a journalist from [*name country*] and employed at [...]). He stated that he was following a recent story published by his colleagues from [...]. They had allegedly discovered that the Person Concerned had plagiarized 200 sentences and 30 diagrams/graphs from three Master’s theses of three students. These students are not mentioned as co-authors in his PhD thesis. The three students are now employees at [*organization*] working under the responsibility of the Person Concerned. The journalist asked himself if Tilburg University was aware of the aforementioned publication. He also asked himself if the PhD thesis of the Person Concerned had been checked.
- 2.5 As a result of the aforementioned reports, the Rector Magnificus requested the confidential advisor for Scientific Integrity and the Head of Internal Audit to conduct an exploratory investigation of the facts. They reported to the Executive Board on September 12, 2019.
- 2.6 The reports and the exploratory investigation of the facts were reason for the Executive Board to request the Committee to launch a more detailed investigation. In a letter of September 19, 2019, the Board requested the Committee (inter alia) to form an opinion on the question if the content

and realization of the dissertation of the Person Concerned results in a violation of scientific integrity.

- 2.7 On September 20, 2019, the Committee informed the Person Concerned and his PhD thesis supervisors of the request.
- 2.8 On October 1, 2019 the Committee ruled that the request was admissible. The Person Concerned and the PhD thesis supervisors were informed to that effect on October 9, 2019.
- 2.9 The Person Concerned filed a written defense on November 8, 2019.
- 2.10 A hearing was held on November 22, 2019. The Person Concerned was present during this hearing.
- 2.11 The record of the hearing was sent to the Person Concerned for correction. The response of the Person Concerned to the record of the hearing is attached to the record.
- 2.12 On November 22, 2019, via a video connection, the Committee also spoke to three (former) Master's students with whom the Person Concerned had worked together. On November 28, 2019, the Committee spoke to the PhD thesis supervisors. The (former) Master's students and the PhD thesis supervisors were invited to provide more detailed information and to answer questions, so that the Committee could gain better insight into the case. A summary of the discussions is given in paragraphs 5 and 6. The records of the discussions will not be enclosed with the advice, but they are in the Committee's possession.

3. Conclusion of the exploratory investigation of the facts

- 3.1 The reason for the Executive Board's request is the exploratory investigation of the facts by the confidential advisor for Scientific Integrity and the Head of Internal Audit of September 12, 2019. They arrived at the following findings:
 - The manuscript of the Person Concerned passed the plagiarism scan (Ephorus) in accordance with the procedure. A score of 3% overlap with texts from other sources emerged from this. It is noted that plagiarism software cannot do a translation, which makes it impossible to detect whether, in an English PhD thesis, plagiarism was committed from a document in a different language.
 - The Master's theses are dated before the date of the PhD thesis defense ceremony of [*date defense*]. It should be noted as well that it cannot be established with certainty whether the Master's thesis of [*masterstudent 3*] was completed before the aforementioned date of the PhD thesis defense ceremony.
 - There is a striking overlap between the chapters from the PhD thesis and the Master's theses.
 - With respect to Chapter 2 and Chapter 3 of the PhD thesis, the confidential advisor for Scientific Integrity made a comparison between the dissertation and the Master's theses. His main findings are:
 - There is a substantial overlap between the chapters of the PhD thesis and the Master's theses. Some chapters are literal translations from [*language*], and other parts were adapted.

- In a number of places, there are apparently differences in the specifications used, but the [*discipline of science*] results are the same.
- The vast majority of the diagrams/graphs (with underlying data sets) and tables are the same, but are claimed by the Person Concerned as well as the Master's students as their own work.
- The Master's students are mentioned in the word of thanks of the PhD thesis. The reference list does not include a reference to the relevant Master's thesis/theses.

4. Defense of the Person Concerned

- 4.1 The Person Concerned submitted a written defense on November 8, 2019, and explained his viewpoint during the hearing on November 22, 2019. Briefly summarized, he puts forth the following.
- 4.2 The Person Concerned is of the opinion that the accusations against him are unfounded. The topics, hypotheses, research questions, objectives, methodology and bibliography are completely his own work, and have already been clearly defined since the presentation of his research proposal. The design of the dissertation is based on various seminars the Person Concerned attended during his Master's program [*name programme*] at Tilburg University. The Person Concerned elaborated on his research proposal independently in his PhD thesis. He received more than a hundred comments from the PhD thesis supervisors on draft texts of his PhD thesis. Later, as well, he received dozens of comments from the PhD Committee. All these comments were incorporated by the Person Concerned himself. This is only possible if one has mastered the relevant material. It is practically impossible that the comments spread across the dissertation were incorporated by others. The dissertation is therefore completely his own work.
- 4.3 The Person Concerned stated that he had worked with several students in the context of a graduation seminar in the area of his PhD thesis topic. He called this a research team. The research the students conducted resulted in a thesis of which the Person Concerned was the supervisor. According to the Person Concerned, most of the doctoral research had already been completed at the beginning of the seminar. The Person Concerned estimates that about 70% was finished. The Person Concerned stated that the research the students conducted centered on the research terms of reference, hypotheses and conclusions from the PhD thesis. The students studied the literature and made calculations and estimates on the basis of the model used. They were also given other assignments and exercises that were not related to the PhD thesis topic. They helped to develop tables, diagrams and graphs.
- 4.4 The Person Concerned stated that he had given the students permission to use the results, findings and conclusions from the PhD thesis for their theses. He believed he had a moral obligation to recognize their valuable contributions to his research in this way. In addition, the Person Concerned considers it important to mention that he should not refer to the students' Master's theses, but the students should refer to the PhD thesis in their Master's theses. The students, however, were unable to do so because the PhD thesis had not yet been published. The Person Concerned did indeed refer in his PhD thesis to the joint publications he produced with the students.
- 4.5 Regarding the overlap with the thesis of [*masterstudent 4*], the Person Concerned stated the following. The Person Concerned stated that [*masterstudent 4*] was not a member of the research

team. Together with [masterstudent 4] and [co-author], he wrote the book [title book]. Chapter four of the PhD thesis is an extension of the book referred to in the topic to [continent]. Both the Person Concerned and [masterstudent 4] drew on this book for the PhD thesis and the Master's thesis, respectively.

- 4.6 The Person Concerned concludes from this that, consequently, during the preparation of his PhD thesis, there was no question of plagiarism. He stated that he had, in fact, acknowledged their support in drafting the dissertation at the beginning of his PhD thesis. The Person Concerned stated that the contributions of the students to the PhD thesis were relevant, but that the substantive contents of his PhD thesis originated from the Person Concerned himself. The contribution of the students was not so large that they should be included as co-authors. They are, however, included as co-authors besides the Person Concerned in a number of publications. [Institution] will publish another book in which all students will make contributions as co-authors.
- 4.7 Person Concerned also stated that he did not explicitly discuss with his PhD thesis supervisors that he worked with a research team.
- 4.8 On reconsidering the situation, in retrospect, the Person Concerned would have done things differently now. In the first place, he would have asked his Master's students to mention explicitly in their Master's theses that they used material from his PhD thesis. In the second place, he would have included more clearly in his PhD thesis that the students wrote their Master's theses under his supervision and that their Master's theses are based on his research, the results of which are set out in the PhD thesis.
- 4.9 In order to see if plagiarism is involved, according to the Person Concerned, the originality of the work should be assessed. The Person Concerned is of the opinion that the research proposal, the documents exchanged between him and his PhD thesis supervisors and the statements by the students demonstrate that his PhD thesis is the result of his own intellectual creation.

5. Statements by the students

- 5.1 On November 22, 2019, the Committee spoke to [masterstudent 2], [masterstudent 3] and [masterstudent 4] (separately). The Person Concerned was the thesis supervisor of the three students. [Masterstudent 2] and [masterstudent 3] were members of the research team of the Person Concerned. Among other things, [masterstudent 4], together with the Person Concerned, wrote the book [title book], of which Chapter four of the PhD thesis is an extension.
- 5.2 [Masterstudent 2] and [masterstudent 3] made identical statements. Both students were members of the research team and worked closely together with the Person Concerned. The students studied the literature and made calculations/estimates on the basis of a model. The students and the Person Concerned wrote texts, and made tables, calculations, diagrams and graphs together. The students do not remember who did what. According to them, it was expressly a joint project, and it was part of a collaborative process. The students cannot say whether they had explicit permission to use texts, tables, diagrams and graphs in their Master's theses. They state that they followed a line of research from which the hypotheses and research topics were formulated, and from which later publications would still follow.
- 5.3 [Masterstudent 4] stated that he included a footnote on the first page of his Master's theses in which it is stated that his Master's thesis forms part of broader work of the Person Concerned, [co-

author] and himself. [Masterstudent 4] understood that the Person Concerned had extended the topic described in the book [title book] for his doctoral research. [Masterstudent 4] cannot say anything about the PhD thesis of the Person Concerned, because he had only worked together on the aforementioned book. [Masterstudent 4] stated as well that he has not read the manuscript of the PhD thesis.

- 5.4 All students stated that they did not need to be mentioned in the PhD thesis as co-authors. [Masterstudent 2] stated that he had benefitted from the supervision by the Person Concerned and that the Person Concerned indicated a line of research. [Masterstudent 3] stated that it was sufficient that she has written a Master's thesis and is co-author of a book that will be published by [institution]. [Masterstudent 4] stated that he considers it more important that he is mentioned on page 1 of Chapter 4 in the PhD thesis.

6. Statements by the PhD thesis supervisors

- 6.1 The Committee had a meeting with the PhD thesis supervisors on November 28, 2019. The PhD thesis supervisors were heard as witnesses/informants.
- 6.2 The PhD thesis supervisors stated that they were not aware that the Person Concerned had used research assistants. Nor did they have any reason to think that there was collaboration. In the first place, during the doctoral discussions, the Person Concerned never mentioned that he worked together with research assistants. In the second place, the Person Concerned never told the PhD thesis supervisors that the research assistants of the Person Concerned had obtained permission to write a Master's theses about part of the research topic. In the third place, the Person Concerned did not indicate in his PhD thesis that he used research assistants. According to his PhD thesis supervisors, the Person Concerned should have stated the above-mentioned. The PhD thesis supervisors would then have been able to judge whether collaboration in this way was acceptable and allowable in terms of academic productivity and/or involved his own work to a sufficient extent.
- 6.3 During their supervision, the PhD thesis supervisors had the idea that the contents of the Chapters were 100% the Person Concerned's own work. During the PhD thesis discussions the Person Concerned received comments on the relevant chapter. The Person Concerned then incorporated all comments by the PhD thesis supervisors in the manner the PhD thesis supervisors had foreseen. According to the PhD thesis supervisors, for each new version, the Person Concerned was able to explain extensively how the comments were incorporated. The PhD thesis supervisors had no doubt as to the fact that he did have the expertise and overview of the adaptations in that chapter.
- 6.4 The PhD thesis supervisors stated that he Person Concerned studied at [university 1] in [name city], [university 2] and [university 3]. These are top-class study programs. According to the PhD thesis supervisors, the Person Concerned therefore knows the mores of scientific integrity and ethics very well. The PhD thesis supervisors were therefore able to assume that the Person Concerned would adhere to them.

7. Legal framework

- 7.1 In Article 1 of the Tilburg University Scientific Integrity Regulations (hereinafter: “**the Complaints Regulations**”) violation of scientific integrity is defined as follows:
“Acts or omissions in conflict with the Netherlands Code of Conduct for Academic Practice, including in any case the acts included in Appendix 1.”
- 7.2 In Appendix 1 of the Complaints Regulations, violation of scientific integrity is understood to mean in any case:
*“plagiarizing (parts of) publications and results of others
Science functions only with the honest recognition of the intellectual property of each person’s own contribution to knowledge. This holds for the whole range of students’ projects and theses to scientific publications and dissertations. This concerns not only literal copying, but also paraphrasing, leaving out notes or listing of sources, surreptitious use of data collected by and designs or tables made by others. Copyright offers the victims the possibility of recourse by way of the courts, but even if there is no (more) direct victim, a researcher can be charged with plagiarism.”*
- 7.3 In Article 4 under b. of the Complaints Regulations, the tasks of the Committee are specified:
“The Scientific Integrity Committee investigates complaints and gives the Executive Board advice on them.”
- 7.4 Under Article 19 in conjunction with Article 16 of Chapter 1 of the Netherlands Code of Conduct for Research Integrity (2018), the Netherlands Code of Conduct for Academic Practice (revision 2014), hereinafter “**the Code of Conduct**”, applies to research completed before October 1, 2018. The Code of Conduct includes the following:
*“1. Honesty and scrupulousness
Principle: Academic practitioners are honest and forthright about their research and its applications. Scientific and scholarly activities are performed scrupulously and should remain unaffected by the pressure to achieve.
[...]
1.3 Accurate source references provide a clear indication of the intellectual provenance of cited and paraphrased text. This also applies to information gathered from the Internet and from anonymous sources. The texts and research results of others are never reproduced without a reference.
1.4 Authorship is acknowledged. Rules common to the academic discipline are observed.
1.5 Academic practitioner do not republish their own previously published work or parts thereof as though it constituted a new contribution to the academic literature.
When republishing previously published findings, they indicate this with a correct reference to the source or by another means accepted within the discipline. In many disciplines it is permissible and even customary to reprint short texts from works published with or without coauthors without a source reference when it concerns brief passages of introductory, theoretical or methodological explanation.
1.6 Scrupulousness is expressed through precision and nuance in academic instruction and research, in publishing research results and in other forms of knowledge transfer.”*
- 7.5 In Article 17 of the PhD Regulations (of October 3, 2016) the basic requirements of the PhD thesis are specified. In the first paragraph, the following is specified as one of the basic requirements:

“The thesis consists of either a scholarly discussion in book form or a collection of essays, written by the PhD candidate or under his demonstrable and dominant co-authorship.”

8. Opinion of the Committee

- 8.1 The Executive Board requested the Committee to form an opinion on the question whether the contents or drafting of the PhD thesis of the Person Concerned gives cause for the finding that scientific integrity has been violated.
- 8.2 The question is, first of all, which qualification should be given to the conduct of the Person Concerned.
- 8.3 The Committee notes that, unlike what the plagiarism scan indicates, there is an overlap between the PhD thesis of the Person Concerned and the Master’s theses of the students. Various text paragraphs, tables and diagrams/graphs are the same. Although there is an overlap between the PhD thesis of the Person Concerned and the Master’s theses of the students, the Committee finds that, in this case, there is insufficient evidence that the Person Concerned copied the texts in question from the theses of the students concerned, or that intellectual property rights to these texts are vested in these students. The Committee has not been able to establish that the Person Concerned used texts, tables, diagrams and graphs of the students in an improper manner. Within a line of research set up by the Person Concerned, there was intensive cooperation between the Person Concerned and students, but it has not become clear to the Committee who wrote which texts and who made which tables, graphs and diagrams, and what share each one had in doing so. Moreover, all students explicitly stated during the hearing that they did not need to be included in the PhD thesis as co-authors. The Committee also considers very important what the PhD thesis supervisors put forth regarding their experiences with the work of the Person Concerned during the doctoral process. During the doctoral process, the PhD thesis supervisors had the firm impression that the work contributed by the Person Concerned was his own. All this means that, with respect to the PhD thesis van the Person Concerned, the Committee is of the opinion that plagiarism has not been demonstrated and that there are not enough indications either of failure to recognize authorship of the former students or others.
- 8.4 The next question is whether the Person Concerned is nevertheless to blame for something. Against the background of, in particular, the principle of honesty and scrupulousness in the Code of Conduct, the Committee finds the following.
- 8.5 The Committee has been able to establish that the Person Concerned:
- did not tell the PhD thesis supervisors that he worked intensively with students in preparing his PhD thesis;
 - did not tell the PhD thesis supervisors that students of his had obtained permission to write a Master’s thesis about part of the doctoral topic;
 - did not explicitly indicate in his PhD thesis that he worked intensively with students in preparing the PhD thesis;
 - has acknowledged that, on further consideration, he should have mentioned more explicitly in his PhD thesis that the students wrote Master’s theses that are based on the PhD thesis.

In view of the above-mentioned findings, the Committee rules that the Person Concerned has acted in a culpable negligent manner. The Person Concerned should have mentioned his collaboration with students in the PhD thesis and in communication with his PhD thesis supervisors, and should have specified what share they had in the whole. In that case, the PhD thesis supervisors and the PhD Committee could have judged, in accordance with Article 17 of the PhD Regulations, whether the PhD thesis was written by the Person Concerned or under his demonstrable and dominant co-authorship.

- 8.6 In conclusion, the Committee notes that the investigation of the conduct of the Person Concerned (section a of the request from the Executive Board) did not give the Committee reason to assess as well whether the procedural rules following from the PhD Regulations were complied with (section b *i* of the request). Nor did the investigation of the conduct of the Person Concerned give reason to examine the way in which the PhD thesis supervisors gave shape to the supervision of the Person Concerned and the assessment of the manuscript (section b *ii* of the request).

9. Conclusion of the Committee

- 9.1 Based on the findings, the Committee comes to the conclusion that there has not been any violation of scientific integrity. The Committee does find, however, that the Person Concerned acted in a culpable negligent manner.

Tilburg, January 15, 2020

On behalf of the Scientific Integrity Committee,

Prof. A.M. Hol, LL.M
Chair

R.D. Harteman, LL.M.
Secretary

Further advice Scientific Integrity Committee January 28, 2020

Translation letter Scientific Integrity Committee to the Executive Board of January 28, 2020

This text is an English translation of the Dutch original. In case of any divergence of interpretation, the Dutch text prevails.

Dear Board,

The Scientific Integrity Committee (hereinafter: **the Committee**) received your request for further advice on January 27, 2020 in the [*name Person Concerned*] case. You posed the question whether the Committee's advice of January 15, 2020 gives cause for the Committee to advise the Executive Board and/or the Doctoral Board to conduct further investigation of the question whether the PhD thesis of the Person Concerned gives sufficient evidence of independent competence to conduct research (Section 7.18(2)(b) of the Higher Education and Research Act (WHW) and/or whether the PhD theses was written by the Person Concerned or was written under his demonstrable and dominant co-authorship (Article 17 of the PhD Regulations 2016).

Further to your question, the Committee informs you of the following. As expressed in the relevant advice, the Committee is of the opinion that "*plagiarism has not been demonstrated and that there are not enough indications either of failure to recognize authorship of the former students or others*". This implies – as the opposite has not been proven – that it must be assumed that the relevant PhD thesis is the result of sufficient own work of the Person Concerned.

The finding under 8.5 of the advice is included to clarify why the Committee reproaches the Person Concerned for not completely mentioning in the PhD thesis the way in which shape was given to the research on which it is based. In this case, the point is that, in advance, before a PhD candidate is admitted to the PhD defense, it must be possible to assess and establish whether there is enough of the PhD candidate's own work for a PhD defense and/or whether possible co-authorships are appropriate or not. As he failed to do so in this case, the PhD candidate was remiss in this respect, and, for that reason, the Committee held that culpably negligent actions were involved. In doing so, however, the Committee did not state that another such assessment is necessary, as it finds that there are no or not enough indications that the research is (partly) based impermissibly on the work of others.

Yours faithfully,

On behalf of the Academic Integrity Committee,

Prof. A.M. Hol, LL.M.
Chair

R.D. Harteman, LL.M.
Secretary