

ADVICE OF THE NETHERLANDS BOARD ON RESEARCH INTEGRITY

in response to the Petition of:

1. B.F.M. Droog

concerning the initial judgement of

2. the Board of the University of Groningen

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## Proceedings

On 8 August 2019, B.F.M. Droog (hereafter: the Petitioner) lodged a complaint with the Board of the University of Groningen (hereafter: the Board) about a suspected violation of academic integrity committed by Dr A.P.M. van Liempt (hereafter: the author).

The Board forwarded the complaint for advice to the University of Groningen Academic Integrity Committee (Commissie Wetenschappelijke Integriteit, hereafter: CWI).

The CWI processed the complaint in a hearing on 17 May 2019 and, on 15 December 2019, sent recommendations to the Board to dismiss the complaint.

The Board accepted the recommendations and dismissed the complaint in its initial judgement of 19 December 2019.

The Petitioner then requested the Netherlands Board on Research Integrity (Landelijk Orgaan Wetenschappelijke Integriteit, hereafter: LOWI) to advise on the initial judgement in a petition that the LOWI received on 29 January 2020.

In its meeting of 19 February 2020, the LOWI decided to process the Petition. Both the Board and the author submitted a statement of defence. The Petitioner responded to both statements. The Board responded to the statement of the author. The Board and the author gave a last reaction.

In its meeting of 20 May 2020, the LOWI decided that it had received sufficient information and that it would process the case on the basis of the documents.

The parties were informed that no hearing would be organized.

## Considerations

### **Introduction**

1. The author gained a PhD at the University of Groningen with a thesis entitled: *Gemmeker, commandant van kamp Westerbork*. The PhD thesis contains historical research presented in a biography. The author mainly researched whether Gemmeker knew what fate the residents of the Westerbork transit camp awaited when they were transported by trains from Westerbork to extermination camps.
2. The Petitioner is of the opinion that the author has violated academic integrity in his thesis.

### **Complaint**

3. The Petitioner accuses the author of plagiarism, inventing data and falsifying data. The Petitioner is further of the opinion that academic integrity has also been violated because an explicit research question is missing from the PhD thesis, certain secondary sources about Gemmeker have not been used, at least not sufficiently referred to, that it is not clear how the thesis relates to the current state of science and that there is a conflict of interest among the various actors who played a role in the realization of the thesis.

## Initial judgement and CWI advice

4. With reference to the CWI advice, the Board dismissed the complaint.
5. The CWI consider that the author has not violated academic integrity but that parts of the complaint gave rise to the judgement that the author had been inaccurate in his thesis. These inaccuracies regard:
  - Incorrect publication date of the interview of journalist Dick Walda with Gemmeker in the Dutch broadsheet *de Volkskrant* (30 January 1982 instead of 29 January 1983);
  - The extent to which the author said that the preliminary investigations into Gemmeker were known in Germany. According to the CWI, the author should have exercised more restraint in this matter and the author has created an appearance of carelessness;
  - The way the author paraphrased a fragment of his email correspondence with a Canadian fellow historian;
  - The references to other books (secondary sources) about Gemmeker.

## The Petition

6. The core of the Petitioner's arguments is that the author's acts were erroneously qualified as inaccuracies and not as an infringement of academic integrity. According to the Petitioner, the author most certainly made up and falsified data, and committed plagiarism.

The Petitioner is of the opinion that the initial judgement is incompatible with Articles 2:4, 3:2, 3:4 and 3:46 of the Dutch General Administrative Law Act (*Algemene wet bestuursrecht*, hereafter: Awb), and that the CWI advice, which is the basis of the initial judgement, is substandard and prejudiced.

The Petitioner points out that the various authors who have published works regarding Gemmeker have been disadvantaged because the author has made insufficient reference to them. According to the Petitioner, their interests had not been taken into consideration sufficiently in the CWI advice, which is why these authors support the current Petition to the LOWI, as do other persons, including the Canadian historian who was paraphrased incorrectly by the author.

The Petitioner further brings up that the CWI wrongly failed to take into consideration academic literature about plagiarism and academic integrity, upon which the Petitioner referred to the CWI procedure and pointed out that it includes that arguments questioning authority should not be used in science but that verifiability should be paramount.

The Petitioner is of the opinion that the CWI failed to address his complaint that the author disregarded the most relevant studies on the failure to prosecute Gemmeker in Germany and what the Germans knew about the fate of the Jewish people.

The Petitioner also does not agree with the CWI's conclusion about the – lack of – attention that the author gave in his thesis regarding Gemmeker's grandson and an article about Gemmeker written by a journalist of the Dutch broadsheet *De Telegraaf* in 1971.

With regard to the author's defence, the Petitioner notes that a smokescreen was put up in this respect, which in itself contradicts the code of conduct. The Petitioner requests the LOWI to advise that the supervisors and the thesis committee should not have accepted the PhD thesis.

### **LOWI assessment framework**

7. The LOWI advises the Board of an affiliated institution about an – initial – judgement taken by the Board regarding the alleged violation of academic integrity. The LOWI does not advise of its own accord but only in response to an admissible petition to that effect.
8. When the LOWI has accepted an admissible petition for processing, it checks on the basis of the petition whether the documents submitted and a hearing, or the – initial – judgement of the Board, meet the requirements of careful complaint processing, and whether the initial judgement is in line with the standards of academic integrity. In its checks, the LOWI includes the complaints procedure of the institution involved. The standards of academic integrity are laid down in the Netherlands Code of Conduct for Academic Integrity that came into effect on 1 October 2018. If the research activities to which the Petition refers to were started before 1 October 2018, the LOWI uses the Netherlands Code of Conduct for Academic Practice 2004, last revised in 2014.
9. The judgement that one or more standards of academic integrity have been violated does not automatically lead to the judgement that academic integrity has been violated.
10. The LOWI does not have the authority to pass judgement on issues of a criminal, administrative or civil-law nature, nor on academic controversies. The latter refer to differences of interpretation or differences of opinion about an academic view. Academic controversies should be discussed and resolved at the appropriate forum.

### **Assessment by LOWI**

#### *Declarations of support*

11. The LOWI took note of the declarations of support submitted by the Petitioner. It was established that the Petition – and the original complaint – were submitted by the Petitioner only. The fact that several persons supported the Petition had no effect on the assessment of the Petition by the LOWI.

#### *Worthiness of the thesis for obtaining a PhD*

12. The LOWI cannot advise the Board on the question of whether the supervisors and the Assessment Committee should have refrained from accepting the thesis, as the Petitioner puts forward. As the LOWI previously concluded in its advice of 2019, no. 14 ([www.lowi.nl](http://www.lowi.nl)), admission to the PhD thesis defence and the assessment of the worthiness of a thesis for obtaining a PhD are decisions that are reserved for the University's PhD Board. It does not fall in the

competence of the CWI, the Board of the University or the LOWI to pass judgement on this. To the extent that the Petitioner argues that, contradictory to Article 7.4 of the PhD regulations of the University of Groningen, he was withheld the possibility to oppose from the audience, the Petitioner should refer to the University's PhD Board instead of the LOWI.

#### *Other publications by the author*

13. In his complaint, the Petitioner also refers to other publications by the author besides his PhD thesis. The Petitioner again mentions those other publications in the various appendices to the Petition to the LOWI. In its advice, the CWI rightfully remarked that its competences are restricted to assessment of the PhD thesis and the associated academic research. The same applies to the LOWI procedure. The LOWI will not pay attention to other publications by the author in his capacity as a journalist prior to the academic historic research that he carried out for this thesis for the first time. All that the Petitioner brings forward about publications other than the PhD thesis falls outside the LOWI assessment framework.

#### *The author's defence*

14. In item VII of his Petition, the Petitioner argues that the author's defence that he presented to the CWI and the explanations of the supervisors were one big smokescreen and contravened the Netherlands Code of Conduct for Academic Practice (revised in 2014). Notwithstanding the quality of these documents, the author's defence or other explanations given by the author and his supervisors cannot be dealt with in the assessment in this procedure. The initial judgement based on the CWI advice will indeed be assessed. The LOWI will focus on the initial judgement and will not deal with the Petitioner's criticism of the previously mentioned file documents.

#### *Fear of bias*

15. The Petitioner argues that the CWI advice is prejudiced and that the initial judgement was passed in contradiction to Article 2:4 of the Awb.
  - 15.1. Article 2:4 of the Awb reads:
    - “1. An administrative authority shall perform its duties without prejudice.
    2. An administrative authority shall ensure that persons belonging to it or working for it who have a personal interest in an order do not influence its decision-making on the matter.”
  - 15.2. As the LOWI considered earlier, for instance in its advice 2020-07, 2019-17, 2017-02 and 2019-05 ([www.lowi.nl](http://www.lowi.nl)), the principle is that the members of the CWI are, by virtue of their appointment, deemed to be impartial, unless an exceptional circumstance arises that may give rise to a serious indication for the view that the CWI may be prejudiced or that it may be objectively justified that a party may fear the CWI to be prejudiced. The mere subjective opinion of that party is insufficient. The party involved shall be the one to demonstrate plausibly that such an exceptional circumstance is the case.

15.3. The Petitioner advances many arguments that in his opinion proves that the CWI and/or the Board are prejudiced. The Petitioner states, for instance, that:

- the CWI failed to investigate the conflicts of interest that he mentioned regarding the thesis the CWI had not sufficiently taken into account that the Petitioner and one of his supervisors are 'social heavyweights'
- the CWI possibly was influenced by the written response of the supervisor to a further document that the Petitioner had submitted shortly before the hearing
- in response to a letter of the Petitioner, the Rector Magnificus replied: "Much commotion was caused [by the current complaint]. I regret that."
- the author or a supervisor had infringed on their duty of confidentiality in the CWI procedure
- the CWI wrongly limited the Petitioner's complaint to the author, whereas his complaint also concerned the supervisors
- the CWI insufficiently argued why a violation of academic integrity was not the case
- the CWI only mentioned the position of Prof. Winnink and not those of the other persons who accompanied the Petitioner at the hearing, which may have created the impression that Winnink, by virtue of his specialization in theoretical physics, did not have the knowledge and expertise to assess the value of the thesis
- the CWI consistently used the terminology of the author and one of the supervisors.

15.4. The essence of most of these arguments is that the Petitioner disagrees with the content and the wording of the CWI advice. These are no exceptional circumstances that may prove the CWI to be prejudiced. The CWI was reasonably able to interpret the complaint as exclusively directed against the author (and not the supervisors) and dealt with all parts of the complaint, and substantiated its opinion. The fact that the CWI included the author and the supervisors' response to the document later submitted in the formation of its opinion is justified from the principle of hearing both sides of the argument. There is no question of influence; a body such as the CWI ought to take note of file documents and assess them on their merits. The fact that the CWI omitted to – explicitly – mention the social status of the author and the supervisor is also no sign of being prejudiced. In so far as the Petitioner argues that the author or a supervisor had infringed on their duty of confidentiality in the CWI procedure, the LOWI is of the opinion that the author correctly pointed out that it was the Petitioner who sought publicity. As such, the LOWI understood the remark of the Rector Magnificus referred to by the Petitioner about the commotion that was caused. Therefore, the LOWI does not consider this remark as a reason for the conclusion that the Board's initial judgement was prejudiced. The assertion fails.

#### *Carefulness, proportionality and motivation*

16. The Petitioner argues that the CWI advice is substandard and that the initial judgement was passed in contradiction to Article 3:2, 3:4 and 3:46 of the Awb. He pleads that the CWI advice was incomplete, that the principle of hearing both sides of the argument was violated and that the Board should have made

sure that the CWI advice was carefully formed.

- 16.1 The sections of law that the Petitioner relies on are a codification of the principle of due care (this includes hearing both sides), the principle of proportionality and the duty to give reasons. These are the general principles of proper administration that, in the opinion of the LOWI, also apply to the complaints procedure. In what the Petitioner put forward, the LOWI does not find reason for the view that these principles were violated. The LOWI considers the following.
- 16.2 The LOWI does not follow the Petitioner in his assertion that the CWI advice was incomplete. The LOWI supports the choice made by the CWI to check the complaint against the details of 1.1, 1.3 and 1.4 of the Code of Conduct for Academic Practice 2014. As the LOWI discussed in consideration 12 of this advice, only the University's PhD Board has the authority to decide on the worthiness of a thesis for obtaining a PhD. The CWI therefore correctly did not include the PhD regulations and all that the Petitioner put forward about the – academic – quality of the thesis. Furthermore, the – information about plagiarism on the – website of the University that the Petitioner refers to is no part of the assessment framework of the CWI and was therefore rightly not included in the advice. As the LOWI already discussed in consideration 15.4 of the advice, the CWI could reasonably regard the complaint as directed against the author.
- 16.3 Nor does the LOWI follow the Petitioner in his arguments that the CWI violated the principle of hearing both sides of the argument as the CWI did not offer the Petitioner the opportunity to respond to the written reactions of the author and his supervisors after the hearing. It was established that the Petitioner submitted – extensive – documents shortly before or during the hearing. Although the CWI, with regard to proper proceedings, could have excluded these documents from its decision, it included the documents as this was in the interest of the Petitioner. The written response round is usually closed directly at the end of the hearing. In order to include the Petitioner's further document in its assessment, the CWI gave the author and the supervisors the opportunity to respond in writing after the hearing and to close the written round after that. The fact that the Petitioner was subsequently not given the opportunity to respond to the reactions does not contravene the principle of hearing both sides.
- The principle of hearing both sides does not require that, after the hearing, parties may respond in writing to what the other party orally put forward during the hearing. The fact that the CWI did not include the document that the Petitioner submitted after the hearing in the file of its own accord does therefore not contravene the principle of hearing both sides. Nor does the fact that the CWI added the document that the author and the supervisors submitted after the hearing to the file contravene the principle of equality as the Petitioner stated. These documents are a response to the extensive documents the Petitioner submitted shortly before or during the hearing, for which the CWI gave the author the opportunity to respond to.
- In view of this, these are not equal situations that should be treated equally.

- 16.4 The Board summarized the CWI advice in its initial judgement and further referred to the complete advice that was included as an appendix to the initial judgement. In the summary of the CWI advice, the LOWI reads that the Board had properly studied the initial judgement before using the advice as the basis for its initial judgement. Contradictory to what the Petitioner states, the Board did not accept the CWI advice automatically and without explanation. The LOWI considers that the Board could indeed use the CWI advice as a starting point, since it is the CWI's task to – independently – advise the Board on its assessment of complaints about academic integrity. However, this does not alter the fact that, in view of the principle of due care, the Board must ensure that the investigation of the facts has been carried out carefully and that the facts may support the conclusions if applicable (duty to verify). The opinion of the LOWI is that the Board had no reasons to doubt the meticulousness of the CWI advice. The CWI carried out an extensive investigation of the facts. Furthermore, the facts and the motivation given in the CWI advice supported the conclusions.
- 16.5 In view of the above, the LOWI does not share the Petitioner's opinion that the CWI advice was substandard. The CWI investigated the very extensive complaint of the Petitioner carefully and comprehensively. The question of the Petitioner that is now under assessment and that is central in his Petition is whether the CWI applied the correct *qualifications* to the acts of the Petitioner. This will be dealt with below.

*Incorrect interview publication date and extension of complaint*

17. In connection with the Petitioner's complaint, it has been asserted that in this thesis, the author mentioned an incorrect publication date of the interview of journalist Dick Walda with Gemmeker. The interview was not published in the broadsheet *de Volkskrant* on 30 January 1982, but on 29 January 1983, after Gemmeker's death. The CWI regarded this as an inaccuracy and not as a violation of academic integrity. The CWI included the author's explanation that he used an email that Dick Walda had sent. According to the CWI, the author should have checked the publication date, but did not commit this omission intentionally and this cannot be regarded as invention or falsification of data as the Petitioner stated.
- 17.1. The Petitioner argued that the author invented the exchange of emails with the interviewer of Gemmeker and that the CWI should have asked for the correspondence to verify the author's explanation. The Petitioner added that he contacted the interviewer after the hearing. According to the Petitioner, the interviewer saved the texts of his emails in Word documents and shared the text of his email message to the author dated 16 October 2018 with the Petitioner. This is a completely different text than the passage cited by the author in his explanation to the CWI. The Petitioner is of the opinion that the incorrect publication date cannot be qualified as inaccurate, but must be qualified as – intentionally – inventing or making up data and as such, as an infringement of academic integrity.
- 17.2. The author disputed the Petitioner's arguments and submitted the full email that he received from Dick Walda on 16 October 2018 in the appendix to his defence.

17.3. In so far as the Petitioner is of the opinion that the CWI should verify each position of the parties for correctness in a CWI procedure if possible, the LOWI does not follow the Petitioner. In principle, the CWI may assume that the facts given by the parties are correct. Only if the other party contradicts the facts presented should the CWI establish which facts best approximate reality and which facts it should use for the assessment of a complaint. The Petitioner first contradicted the author's explanation of the email correspondence with the interviewer in the LOWI procedure. The Petitioner could not contradict it earlier as the written response round had ended, as discussed earlier in consideration 16.3 of this advice. The LOWI assessed the contradicted facts in the context of the current Petition. On the basis of the email of 18 October 2018, included in the author's defence, the LOWI established that this was the email sent by Dick Walda from which the author cited in his explanation to the CWI. The Petitioner's assertion that the author had invented this email is therefore not correct. The LOWI shares the CWI's conclusion that the author had been inaccurate in mentioning the publication date, but that the author as such did not invent or falsify data. The CWI was correct to conclude that this did not lead to a violation of academic integrity.

18. Following his argument about the incorrect publication date, the Petitioner further argued that the author wrongly neglected to refer to the book *Trompettist in Auschwitz*, about Lex van Weeren who survived the Holocaust. He also points out that the author wrongly referred to this survivor as a violin player instead of trumpet player.

The LOWI notes that this is a new complaint with which the Petitioner extended his original complaint. The CWI was not able to advise on this extension of the complaint, and the Board was not able to assess it. An extension of the complaint is not allowed in this stage of the procedure in which the LOWI is asked to advise about the initial judgement of the Board. The LOWI will therefore not advise the Board about this subject.

*Incorrectly paraphrasing a fellow historian*

19. The Petitioner argues that the author had not only acted inaccurately, but had also invented or falsified data by including an incorrect representation of the words of a fellow historian in the thesis who was interviewed by email. He advances that the fellow historian involved also thought that this was a violation of academic integrity. According to Petitioner, the CWI harmed the reputation of science by concluding that this was gross negligence, instead of concluding that the author had violated academic integrity.

19.1. The CWI reviewed the email exchange between the author and the fellow historian involved and compared it with a passage in the thesis about the subject.

The passage reads as follows (translation of the author's Dutch translation):

'Could it be true that Gemmeker, the chief of the office supplies department, was involved in the instructions for anti-Jewish actions? Gestapo researcher Ryan Stackhouse deems it a positive possibility: "He wasn't included in the daily communications network but because of his position in the organization, it seems quite

logical that he made this phone call. It was quite customary that in very busy periods, policemen took over each other's' tasks.'"

The fragment of the email concerned reads as follows:

'Gemmeke's position in administration supports him making this telephone call. He's not on routine telephone communications. But on the subject of officers filling in for one another.'

The CWI then considered that the author had not literally translated his fellow historian's email passage from English to Dutch but that he paraphrased it, which may cause the risk that the original text may be translated incorrectly. The author did not send his translation to the fellow historian for approval nor did he mention that his answers would be used in the thesis. The CWI concluded that it might have been apparent to do so and that the author should have acted more carefully in this respect. According to the CWI, the last sentence of the passage in the thesis cannot be traced back to the email that the fellow historian sent to the author. According to the CWI, this was gross negligence on the part of the author. The CWI added that, according to the fellow historian, the last sentence was an 'invention'. The CWI concluded that the negligence in itself, also in view of the content of the previous sentence of the passage in the thesis, was not of such an adverse nature that it could be called a violation of academic integrity such as falsification or invention of data.

- 19.2. The author paraphrased his fellow historian. By marking the passage with quotation marks, the author portrays his fellow historian's message as a citation, which is not the case. The LOWI is of the opinion that presenting paraphrased text as a quote is negligent. Therefore, the LOWI supports the CWI's conclusion that the author acted negligently. However, the LOWI does not agree with the Petitioner that this would be a case of invention or falsification of data, or of violation of academic integrity. The assertion fails.
20. The Petitioner further argues that the CWI should have independently conducted a review of the other quotes in the thesis, as each time, the author seemed to have been 'fiddling around'. The LOWI does not follow the Petitioner in this line of reasoning. In view of Article 6.3 of the University Regulations for the Protection of Academic Integrity, the CWI has the duty to advise the Board about complaints regarding academic integrity that it has accepted for processing. The CWI cannot be obliged to carry out an investigation into possible – additional – violations of academic integrity of its own accord. It must restrict its examinations and advice to the grounds of the complaint. In his complaint, the Petitioner did not give a concrete indication that the author had acted contrary to academic integrity regarding other quotes. The CWI did not need to review the quotes – that now, in the Petition to the LOWI, have been indicated concretely – of its own accord. The assertion fails.

#### *References to other books about Gemmeke*

21. The CWI considered that the author should have been more careful, particularly with regard to references to other books about Gemmeke. The CWI deemed it understandable that the author focused on primary sources (such as the report of Jan Schoenmaker). However, the CWI said that because other authors had already written about – the same aspects of – Gemmeke before the author,

even with the same primary sources, and those other authors were mentioned to a limited degree or in a general sense, the appearance of plagiarism is easily created. According to the CWI, this is particularly the case when only few authors have dealt with the same issue. The fact that the author started his research many years ago and could not yet refer to these publications at the time makes no difference according to the CWI: the date of completion of a study is indicative for stating the sources. According to the CWI, a complete and accurate – secondary – list of sources is indicated to reflect the state of science and to place the thesis in that context. The CWI was of the opinion that there were no reasons for more relaxed standards regarding the reference to sources as is in the case of a public version of a thesis, because in this case, the thesis and the public version were the same. The CWI deemed, however, that the author had not committed plagiarism because he could have been more careful, but was not obliged to be more accurate. The CWI took into consideration that within the relevant academic discipline of historic biographies, no unambiguous consensus exists regarding source references. The author has chosen a method for source references in which secondary sources are mentioned sparingly, as the findings directly may be traced back to the original sources. Both supervisors and the author share this opinion. According to the CWI, this opinion may be disputed, but in view of the range of existing opinions, it is not unreasonable to the extent that it should lead to the conclusion that academic integrity has been violated. Furthermore, the CWI considered it important that the authors who wrote about Gemmeker before were not neglected altogether, but that this is a case of incompleteness and partly a lack of consistency in the method for source references – such as the relation between the notes and the index of persons. According to the CWI, the culpability of the inaccuracies is mitigated by the circumstance that the supervisors of the author and the Assessment Committee did not coach the author regarding the defects that the Petitioner observed in the thesis. The CWI is of the opinion that the defects of the thesis cannot be attributed in full to the author.

- 21.1. The Petitioner argues that the author committed plagiarism by failing to refer or referring inadequately to sources in several passages that, together, add up to at least five to ten pages in his thesis. The Petitioner submitted an overview of the passages including the response that the author gave in his defence with the CWI. According to the Petitioner, the volume of the passages that he marked shows that the author did commit fraud. The Petitioner postulates that the CWI should have engaged an independent expert in the field of plagiarism. The Petitioner cannot agree with the CWI advice that stated that he consented to not engaging an expert. The Petitioner says that he was surprised by this point at the hearing and that on 18 November 2019, he wrote an email to the chair of the CWI stating that, on second thoughts, he was of the opinion that the CWI should have engaged an independent expert. He also argues that the CWI unjustly failed to include relevant academic literature about (pawn sacrifice and structural) plagiarism in its assessment, although the Petitioner had alerted this in the CWI procedure. The Petitioner also argues that the author acted as if he were the first to have written a biography about Gemmeker and that that amounts to data falsification.
- 21.2. Both parties do not dispute that an academic historic biography must include references to primary sources. The author acknowledged that for certain passages in his thesis, as mentioned by the Petitioner, he should have made references to primary sources. In view of this acknowledgement, the LOWI is of the opinion that the author acted carelessly in this respect.

Within the relevant academic discipline of historic biographies, no unambiguous consensus exists regarding the method of source reference lists (references to primary or secondary sources). In this respect, the LOWI follows the CWI's decision not to engage an expert. To answer the question of whether the author was careless in not or not often enough referring to secondary sources about Gemmeker, aside from the current views within the relevant field, it is considered important that academics are not always held to reflect the theory of science unless a priority claim can be made, cf. LOWI advice 2017-02 ([www.lowi.nl](http://www.lowi.nl)). Furthermore, reference should be made to a book if it is an essential source, for instance because the book is authoritative. The author did not make a priority claim regarding writing a biography about Gemmeker. However, the author did claim or meant to claim that his biography is the first to research a longer period in Gemmeker's life, instead of only his time as a camp commander. The LOWI supports the CWI's observation that the author would have been wise to point out, in his statements at the time of the publication of his thesis in print, that previous books about Gemmeker were published, but does not deem the references in the thesis to secondary sources careless from the perspective of a priority claim. From the view point of the authority of those other books, the absence or sparse presence of references cannot be deemed careless either.

The author therefore did act carelessly to the extent that he insufficiently referred to primary sources, as he admitted. The author did not act carelessly to the extent that, in the opinion of the Petitioner, he did not or not often enough refer to secondary sources. The LOWI includes the view that within the relevant field, no consensus exists regarding the use of sources, that the author did not make a priority claim and that the secondary sources are not of such an authoritative nature that the author should have referred to these.

#### *Gemmeker's grandson and article in De Telegraaf in 1971*

22. The Petitioner argues that the author wrongly failed to mention the statements by Gemmeker's grandson and that he wrongly failed to refer to the article published by journalist Hans Knoop in *De Telegraaf* on 9 January 1971 about Gemmeker's trial in Germany.
23. Regarding the argument that the author did not pay enough attention to Gemmeker's grandson, the LOWI agrees with the CWI that the choice of paying attention to the grandson or not in the thesis is not a matter of academic integrity. It might have been different if the grandson was of the opinion that Gemmeker did not know which fate the Jews awaited, which could be a contraindication for the author's proposition that Gemmeker did know of this, but from the interview with the grandson in regional newspaper *Dagblad van het Noorden*, it appears that the grandson too was of the opinion that Gemmeker was aware of the fate of the Jews. In his defence, the author explained why he chose not to pay attention to the grandson in his thesis. The LOWI takes note of this explanation.
24. The LOWI follows the CWI in its consideration that the author should have been more reticent in his thesis in emphasizing the circumstance that preliminary judicial investigations were known in Germany to a limited extent because Dutch newspapers had published about those preliminary investigations, of which the article by Hans Knoop of 1971 is an example. The LOWI finds no reason for the judgement that the author should have referred to said newspaper article, as the Petitioner argued.

## *Conclusion*

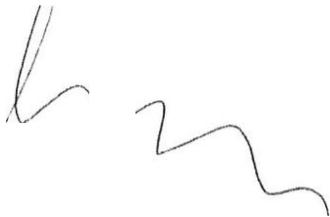
25. In view of the preceding, the Petition is declared unfounded. The LOWI is of the opinion that the CWI rightly concluded that the author had acted carelessly but not contrary to academic integrity. With regard to this, the LOWI is of the opinion that there is no question of an undesired precedent that would give students, PhD students and academics room for fraudulent behaviour as the Petitioner argues. However, the LOWI will advise the Board to examine possible repairs of the inaccuracies that were observed.
  
26. As the LOWI previously concluded, e.g. in the LOWI advice of 2019, no. 14 ([www.lowi.nl](http://www.lowi.nl)), inaccurate acts must be repaired if possible. The LOWI notes that the CWI advice does not answer the question as to what extent the observed inaccuracies could be repaired in the author's thesis. The LOWI will therefore advise the Board to examine this and include it in its final judgement. This may be done by modifying the PDF version of the PhD thesis in the University's open access data bank or by including a corrigendum in the PDF file. The LOWI further notes that this advice is not meant to correct all inaccuracies or defects of the thesis that the Petitioner found. It concerns only the inaccuracies that the CWI had observed and which were confirmed in the advice of the LOWI.

## ADVICE

The Netherlands Board on Research Integrity:

- I. declares the Petition of B.F.M. Droog unfounded;
- II. advises the Board with a reference to consideration 26 of this advice to examine to what extent the observed inaccuracies may be repaired by the author and to include this in its final judgement;
- III. advises the Board to accept its preliminary judgement as the final judgement with due regard to this advice.

As established on 10 August 2020 by E.J. Daalder, chair, in the presence of J.C. Zweistra, administrative secretary.



E.J. Daalder chair



J.C. Zweistra  
administrative secretary