

## **Statement by Professor Bente Klarlund Pedersen in connection with the DCSD ruling dated 28 August 2014**

The Danish Committees on Scientific Dishonesty (DCSD) have decided to stand by certain of their accusations against me. I utterly disagree with their ruling, which will now be taken to court. In consequence, as of now the matter is purely legal, and thus, I refer to my lawyer, Eigil Lego Andersen, who will be able to answer any questions.

In the following, I will give a brief account of the case.

### **Background information**

On 3 February 2014, the DCSD decided to reopen my case, which was brought before them by Henrik Galbo on 19 July 2011 and for which they had issued a ruling on 18 December 2013. A new draft ruling was submitted for the consideration of and response from the parties of the case on 9 May 2014, and the DCSD have now decided to adhere to this draft ruling in their final ruling of 28 August 2014.

### **Briefly about the DCSD's ruling**

In their original ruling of December 2013, the DCSD stated that I was dishonest in connection with two articles, having concluded that a selection of test persons had occurred. The DCSD requested that the two internationally recognised journals retract the articles, but their request was dismissed on the grounds that the journal editors found no basis for a retraction or correction of the articles. In their ruling, the DCSD acknowledged that they erred with regard to these two articles, which are no longer included in the DCSD's ruling. In addition, the DCSD have withdrawn their finding me guilty of selection in connection with one additional article.

The DCSD have claimed that another article should be retracted or corrected. However, the error is so insignificant that the journal editor told me in an e-mail that she does not find that even an erratum is necessary.

### **Verification responsibility**

The DCSD conclude that I am dishonest because I failed to spot Milena Penkowa's manipulation of an image in an article we co-wrote. The DCSD underpin their finding that I was grossly negligent with a rule that a lead author has a special verification responsibility. However, this is not correct. ICMJE secretary Darren Taichman has pointed out that the DCSD's interpretation of the Vancouver Protocol's new rule regarding author accountability is a misunderstanding. There is no basis for claiming that international practice operates with the concept that a leading author has a special responsibility to check for other people's deception and that this responsibility can result in accountability for dishonesty. This has been confirmed by the editor of the Danish medical journal *Ugeskrift for Læger*, Professor Jacob Rosenberg, who is a member of the Vancouver group; please see the debate in the University Post (*Universitetsavisen*).

Moreover, I was not the lead author of the article that dealt with Penkowa's main area of research, metallothionein. Penkowa was in charge of the immunohistochemical work, which also included selecting sections and preparing figures for publication, without involving my laboratory. Penkowa formed the idea to write the article, wrote the manuscript, submitted it for publication and handled all

the related correspondence. Indeed, the manuscript emanated from her department. Penkowa and I had the same academic standing, and Penkowa was both the lead author and the senior author of the article.

When it became clear that there were doubts regarding the integrity of the images, I reported Penkowa to the DCSD and contacted the relevant journal with a view to retraction.

### **Selection**

The DCSD accuse me of selection, having found that I, without indication, selected from among the test persons so that my results would look better than they are. This is a gross misunderstanding. At no time was there any selection of either test persons or results. The simple explanation behind the wording of the articles was that, as far as some of the test persons were concerned, there was insufficient biological material to perform all the tests.

The DCSD now acknowledge that there is no unstated selective or hidden discarding of my own undesired results when analyses such as those in Article 4 are performed on all the available biological material, on which they can be carried out, even though this involves fewer test subjects than in other analyses that were given higher priority. In consequence, the DCSD's previous finding of dishonesty regarding Article 4 is no longer included in their final ruling. However, the DCSD do not understand that this is also of significance regarding two other of the six instances of dishonesty that the DCSD continue to claim are found in my articles. In both the articles in question, all the available biological material was included in the analyses. No test subjects were removed before the analyses were made, and no results were discarded after they were obtained.

### **Cross-references**

The DCSD accuse me of lacking cross-references. To this, I would like to make the following remarks:

There is nothing written about the necessity of cross-references in international guidelines or instructions of any kind. The first time this requirement with respect to scientific integrity was even heard of was in connection with my case. Since the beginning, the DCSD have formulated three different points of view on the issue of when cross-references are necessary. The DCSD should reflect upon why all these changes in argumentation are necessary. If these posited rules were part of good scientific practice as early as ten years ago, when my articles were published, then one would expect that it would be very clear today exactly what these rules are.

I have proved that many researchers do as I do. The two signature petitions that I have presented to the DCSD serve to document that more than one hundred highly respected research directors/lead researchers share my point of view in regard to the need for cross-references, also with respect to my opinion that whether or not cross-references are necessary is a matter of judgement and that a researcher cannot be considered dishonest simply because other researchers in a specific instance would have judged differently. Accordingly, it is beyond doubt that there is no consensus among leading researchers about what good scientific practice is in this field and that, as a result, the DCSD are prevented from ruling that I am guilty of dishonesty in this respect.

### **Inconsistent ruling regarding a trivial error**

One of the errors that the DCSD continue to find dishonest appears in an article that was also involved in a complaint made against me by Jamie Timmons. In the Timmons case, the article in question was cleared by the DCSD. Clearly, the DCSD cannot at the same time sanction this in one ruling yet stamp it as dishonest in another – not least because it is the same seven people that issued these two rulings on the same day: 18 December 2013.

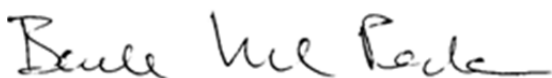
In addition, the error is so insignificant that the journal editor told me in an e-mail that she does not find that even an erratum is necessary. This is significant because there is a triviality limit for the dishonesty findings of the DCSD.

### **General remarks**

In my responses, I have also pointed out a number of conditions that my lawyer and I believe are essentially legal in nature, but which the DCSD have decided to disregard. I would especially point to the following:

1. Five of the total of six alleged instances of dishonesty must be assessed on the basis of the 1998 DCSD act, because it was this law that was in force when the articles in question were published. The 1998 act has a completely different definition of dishonesty than the acts from 2008 and forward.
2. The DCSD group all six alleged instances of dishonesty into categories that are listed in the act as it exists today. All these categorisations are based on flawed interpretations of the law.
3. There is no documentation for the DCSD's assessment of good scientific practice. The DCSD's opinions regarding dishonesty must be anchored in guidelines for good scientific practice that were generally recognised internationally at the time when the scientific articles in question were published. This anchoring is completely lacking.
4. In summary, the DCSD do not indicate one single source of Danish or foreign law that substantiates their dishonesty findings in this case.
5. Jens Ravnkilde (former Supreme Court attorney, PhD) has published a scientific peer-reviewed article in the Danish scientific journal *Ugeskrift for Retsvæsen* entitled "A research-ethical miscarriage of justice. A comment on the decision of 18 December 2013 of the Danish Committees on Scientific Dishonesty (DCSD) in the Bente Klarlund Pedersen case".

København 28. august 2014



Bente Klarlund Pedersen