

PLAGIARISM IN THE CASE OF DOCTORAL THESIS AND THE SANCTIONING OF THIS TYPE OF PLAGIARISM

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Abstract

Considering the magnitude of the phenomenon in general and the public debate on plagiarism, in the present study I proposed to analyze the plagiarism situation, with particular reference to doctoral theses.

Thus, I will present the regulation in the Romanian legal framework of the notion of plagiarism and the content of the obligation regarding the violation of good conduct in research and development through plagiarism and self-plagiarism.

At the same time, will be analyzed the possible consequences of the plagiarism ascertained both before and after the granting of the doctor's degree, with the presentation of the situation of notifications through the CNATDCU, the way of sanctioning the plagiarism deeds, as well as the participation of the general public in the reporting of breaches of the norms of academics conduct on publicly presented doctoral theses.

Keywords: *plagiarism, self-plagiarism, PhD thesis, academic conduct, CNATDCU, Law no.1 / 2011, Law no.206 / 2004*

Introduction

It is unequivocal that plagiarism makes the world of knowledge more fragile and, in this context, there is justification for the growing concern of the public to report such facts, especially from the academic sphere.

As the phenomenon of plagiarism in general and the public debate on plagiarism is of interest, I will analyze the plagiarism situation, with particular reference to doctoral theses.

At present, in Romania, there is a strong concern at the legislative level for the prevention, detection and sanctioning of plagiarism deeds, as well as the participation of the general public in the reporting of violations of the academic conduct norms regarding publicly presented doctoral theses.

1. The notion of plagiarism and self-plagiarism

1.1. Etymology and short history

The term plagiarism comes from the Latin word "plagiarius", which translates as a person that kidnaps children or who sells a free person as slave and was first used when the Roman poet Martial accused his rival, Fidentinus, of unfair appropriation of his lyrics.¹

The concept of plagiarism was born in the form close to the one we know today as a result of two important socio-cultural revolutions: the transition from an oral culture to a culture of writing and the mass reproduction of written texts after the discovering of the typography in the years 1440.²

However, the exclusive outline of the negative meaning of the term appeared only in the 18th century³, with the valorisation of the idea of originality, although the historical and cultural context of those times polished the idea of originality so as to encompass, for example, the writings assumed aluzive, imitative or derived from previous literary⁴ or scientific⁵ writings.

With the gradual overturning of the humanist trend, suggesting a return to the Greek-Roman antiquities, considered to be the real standards of life, of thinking and artistic creation, and the adoption of the principles of Romanticism, which included the emergence of an economic link between the authors and the recipients of works, the idea of protecting intellectual property has emerged.

As a result of the French Revolution, this principle was first established in France in the Chapelier Law of 1791, which stated that "the most sacred and personal of all properties is that of the creation - the fruit of a writer's thinking."

These ideas were subsequently transposed into many legal systems in Europe, in particular. However,

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¹ Jack Lynch, The Perfectly Acceptable Practice of Literary Theft: Plagiarism, Copyright, and the Eighteenth Century, in Colonial Williamsburg: The Journal of the Colonial Williamsburg Foundation 24, nr. 4, p. 51-54.

² Malcolm Coulthard, Alison Johnson, *An Introduction to Forensic Linguistics: Language in Evidence*, Londra and New York, Routledge, p. 155-160.

³ As the poet Horatius claimed, "the circumstances, characters and ideas in the classics are, after all, common property". *Ibidem*, p. 51.

⁴ In literature, Shakespeare's influences on the historical descriptions of holinshed, the borrows of Samuel Taylor Coleridge and Thomas de Quincey from previous authors, were widely debated. It is appropriate to remember an anecdote about Oscar Wilde and James Abbott McNeil Whistler, in which Oscar Wilde said to his friend: "I wish I had said that!", And Whistler's replica would have been "don't worry, you'll say it, Oscar, you'll say it." See, Hesketh Pearson, *Oscar Wilde: His Life and Wit*, Harper & Brothers, New York, p. 87.

⁵ Robert Macfarlane, *Original Copy: Plagiarism and Originality in Nineteenth-Century literature*, Oxford, 2007, Cap. Legitimizing Appropriation, available online at <http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199296507.001.0001/acprof-9780199296507-chapter-3> address.

Plagiarism was not perceived as an act devoid of academic ethics than in the second half of the nineteenth century.⁶

1.2. Legal regulation in the Romanian legal framework. Definitions

According to Art. 310 of the National Education Act Nr. 1/2011, constitutes serious misconduct from good conduct in scientific research and university activity: a) Plagiarism of other authors' results or publications; b) Manufacture of results or replacement of results with fictitious data.

The deed of plagiarism can meet the material element of a crime, according to art. 141 of the Law No. 8/1996, which criminalizes the action of appropriation, without right, of the work of another author and the presentation of that work as an intellectual creation of the perpetrator.

According to art. 4 para. (1) letter d) of Law No. 206/2004 on good conduct in scientific research, technological development and innovation, Plagiarism is defined as "exposure in a written work or oral communication, including in electronic form, of texts, expressions, ideas, demonstrations, data, assumptions, theories, results or scientific methods extracted from written works, including in electronic form, of other authors, without mentioning this and without referring to the original sources".

At the same time, the self-plagiarism, according to art. 4 para. (1) letter e) of Law No. 206/2004, represents 'the exposure in a written work or oral communication, including in electronic form, of texts, expressions, demonstrations, data, assumptions, theories, results or scientific methods extracted from written works, including in electronic form, of the same author/s, without mentioning this and without referring to the original sources'.

From the legal definitions of the two terms, it follows that there are certain traits for the qualification of a deed either as plagiarism or as self-plagiarism, as a proxime type:

1. The preexistence of a written work, which constitutes the source of inspiration;
2. The appropriation of texts, phrases, demonstrations, data, assumptions, theories, results or scientific methods extracted from that pre-existing written work by inserting into another written work;
3. Lack of a bibliographical reference to draw attention to this.

The specific difference characteristic of self-plagiarism is that the pre-existing work belongs to the same author/s.

As regards the third condition, it must be noted that that obligation implies either the performance of a classical reference, by indicating the name of the author, the name of the written work, the publishing house which published the pre-existing works, the place and year of publication, identification of the takeover by the corresponding page/chapter number, by an unambiguous delimitation of the appropriated text and of its own contribution (e.g. by quotation marks) or a simplified reference, with references to the content of another work.⁷

It is appropriate to mention the definition that the National Ethics Council for Scientific Research, technological development and Innovation in the Ministry of Research and Innovation included it in a guide published by this institution. Thus, "plagiarism is the takeover by an author of elements of the intellectual creation work of another author and their presentation in the public space as components of their own works. Plagiarism is the result of the action to raise and refer to the work generated by unlawful takeover, intentional or not, from a deontological standpoint."⁸

It is worth noting, as is also inferred from the legal texts, that it is not relevant in the aspect of the subjective side if the deed is committed intentionally or by fault, or as a simple mistake. For example, the plagiarizing person does not know the rules of academic citation or considers, wrongly, that the text that it appropriates belongs to the public patrimony.⁹

We can conclude, by using real examples to show the facts of possible plagiarism in the academic field, that there may be plagiarism in the case of the contraction of an original idea by paraphrasing, but the indication of the source is omitted, by using, in the contents of an academic work, tables, images, graphs, data, etc. originating from another written work, but without indicating the bibliographical source, the partial or total translation of a text without mentioning the original bibliographical source, The use of the Grosso modo of a work drawn up by another person and its presentation as own, etc.

The object of the academic activity must, on the one hand, prove the ability to investigate and draw up a research paper with a certain scientific value and, on the other hand, advancement in research, which is, in fact, the primary purpose of justification of such action.

Finally, it should be noted that ideas, assumptions, theories are not protected in itself by intellectual property rules, by copyright Law No.

⁶ Jennifer Sharkey și Bartow Culp, *Cyberplagiarism and the Library: Issues and Solutions*, Faculty and Staff Publications – Milner Library, 2005, p. 43.

⁷ About ways to avoid plagiarism, especially the involuntar, see Septimiu Chelcea, *Drafting Handbook in socio-human sciences*, Comunicare.ro, Bucharest, 2011, p. 46-49.

⁸ National Council of Ethics of Scientific research, technological Development and innovation, guide to the identification of plagiarate in scientific works, published at http://cne.ancs.ro/wp-content/uploads/cne/2017/12/Ghid_identificare_plagiat_final_site.pdf, last accessed on 27 January 2019.

⁹ University of Bucharest, guide against Plagiarate, published at the address <http://araba.ils.unibuc.ro/wp-content/uploads/2014/10/Ghid-impotriva-plagiatului.pdf>, last accessed on 27 January 2019

8/1996, which excludes from the protection of the ideas, but it is incumbent upon the authors to take academic ethics to mention the takeover of other authors' IDs and to report their own contributions in connection with them in accordance with Law No. 206/2004.¹⁰

1.3. The personal scope of the rules

As previously stated and the provisions of art. 1 para. (1) of the Law No. 206/2004, it protects good conduct in scientific research, technological development and innovation.

According to the provisions of art. 1 para. (4) of Law No. 206/2004, the obligations relate to the categories of staff provided for in Law No. 319/2003, as well as to other categories of staff, from the public or private environment, benefiting from public funds of development and investigations.

In accordance with the provisions of art. 6 of Law No. 319/2003 on the Staff Regulations of the investigation-development personnel, the categories of staff referred to in are research-development staff, academics, auxiliary staff from the research-development activity and staff in the functional apparatus.

In interpreting the notion of investigation-development staff, it must be used the provisions of article 26 letter (a) of law No. 319/2003, according to which the professional improvement of the investigation-development staff is mainly carried out, inter alia, through doctoral degrees.

By G.R. No. 681/2011, the code of doctoral studies was adopted. According to art. 17 para. (5) letter (e) of this act, the Doctoral School regulation establishes mandatory criteria, procedures and standards for, inter alia, 'ways to prevent fraud in scientific research, including plagiarism'.

As regards the addressee of special liability, art. 20 para. (3) of the Code establishes that 'in the case of possible academic fraud, violations of university ethics or misconduct from good conduct in scientific research, including Plagiarism, the PhD student and/or doctoral director respond under the law. "

Specifically, according to art. 65 para. (7) of that code, 'the doctoral director shall be held accountable with the author of the thesis on compliance with the standards of quality or professional ethics, including ensuring the originality of the content, according to the provisions of art. 170 of the Law No. 1/2011 ".

Therefore, the obligations relating to good conduct in academic scientific research arising from the identification and elimination of the facts of plagiarism and self-plagiarism are incumbent to the PhD student and/or the doctoral leader under the law.

2. Content of the obligation on good conduct in investigation-development, plagiarism and self-plagiarism

There are two types of obligations set out in art. 24 of Law No. 319/2003 on the investigation-development staff duty, to respect the ethics and deontology of the research and development activity and to respect intellectual property rights.

For these facts, the penalties are laid down distinctly, for the first obligations there is a sanctionality set out in the code of Ethics and professional deontology of investigation-development staff and for the other obligations there are penalties provided for in Law No. 64/1991 on invention patents, republished, with the previous amendments, in Law No. 129/1992 on the protection of designs, republished, and in Law No. 8/1996 on copyright and related rights, with subsequent amendments and additions.

The conclusion drawn from the mere reading of the indicated normative provisions shows that the legislature does not assimilate the obligation to respect the ethics and deontology of the investigation-development activity with the obligation to respect intellectual property rights. These obligations are distinctly regulated, as are the incident sanctions, which can also be applied cumulatively, and the procedures for the application of sanctions.

As previously stated, the Law No. 8/1996 penalises, inter alia, the act of plagiarism falling within the sphere of criminal offence, and the Law No. 206/2004 penalises the contravention offences concerning plagiarism.

2. 1. Synthetic description of the process of obtaining a doctor's title

The organisation and functioning of doctoral schools is governed by Law No. 1/2011. According to art. 158 para. (1) of the law, 'doctoral degree programmes shall be organized in doctoral schools accredited or provisionally authorised'. Likewise, "universities, i.e. partnerships or consortals of one or more doctoral schools accredited or provisionally authorised constitute an organisational institution of doctoral University studies".

Para. (6) of the same legal text mentions two types of doctoral studies: Scientific doctorate, "which has as its purpose the production of original scientific knowledge, internationally relevant, on the basis of scientific methods, organised only in the form of a frequency education", respectively the professional doctorate, 'in the field of arts or sports, which has as its purpose the production of original knowledge on the basis of the application of the scientific method and the systematic reflection'.

The duration of a doctoral study program is of 3 years, but can be extended by 1-2 years, with the

¹⁰ About the distinctions between Law No. 8/1996 and Law No. 206/2004 from the perspective of the protection of ideas, see Viorel Roş, Plagiarate, Plagiomania and Deontology, 2016, available at the address <https://www.juridice.ro/essentials/475/plagiutul-plagiomania-si-deontologia>, last accessed on 27 January 2019.

approval of the University Senate. The ministry's funding is achieved through the annual allocation of grants, based on a methodology for calculating the funding of universities.

The process that a PhD student goes through to get a doctor's title is long and etapized. First, the doctoral work is elaborated at universities, under the guidance of a scientific coordinator. Subsequently, if an agreement is obtained for the realisation of public presentation, from the Guidance Commission and the Scientific Coordinator, the latter will propose a doctoral committee consisting of at least five members, the specialists in the field of reference, of which at least two are not affiliated to the institution that organizes doctoral University studies, and one is the scientific leader. The composition of the Commission will be approved by the Council of Doctoral and University school.

The members of the Board of support shall individually analyse the work and carry out a reference, the doctorate will publicly present the work, in the presence of at least four members of the Committee, and the references shall be made public with this circumstance. The President of the Commission will form minutes of the presentation. If the doctoral student receives one of the "excellent", "very good", "good" or "satisfactory" ratings, the work is submitted for analysis to a specialized committee in the reference field, which operates within the CNATDCU.

CNATDCU bases the measure of approval or rejection of the doctoral thesis reference. In the case of approval of the reference, the award of the University's PhD is made by order of the Minister of Education.

2. 2. Possible consequences of plagiarism found prior to the granting of a doctor's title

According to art. 65 para. (5) of the Code of doctoral studies, "The doctoral thesis is an original work, and it is compulsory to mention the source for any material taken over". Article. 67 para. (3) provides that ' following the identification of breaches of good conduct in Investigation - Development inclusively the plagiarising of the results or publications of other authors, the production of results or the replacement of results with fictitious data, when it is made the evaluation of the PhD thesis by the PhD leader or the Guidance Committee, the public support agreement shall not be obtained. "

It is therefore incumbent on the doctoral leaders and the Guidance Committee to identify the violations of good conduct in Investigation - Development and the sanction which they apply to the doctoral student, in the event that an infringement of the the abovementioned obligation, is the failure to grant the public presentation of the doctoral work.

The first thesis of art. 68 para. (2) of the code, provides that, if a member of the Doctoral Committee identifies in the assessment of the thesis, **prior to public presentation**, serious misconduct from good conduct in scientific research and academic activity,

including the Plagiarism of the results or publications of other authors, it is for him to refer the matter to the ethics committee of the Higher Education institution in which the student-PhD is registered and the Ethics Committee of the institution in which is employed the doctoral leader for the analysis and resolution of the case, including by expelling the PhD student, according to art. 306-310 and 318-322 of the Law No. 1/2011 and the provisions of Law No. 206/2004 on good conduct in scientific research, technological development and innovation.

According to the second sentence of art. 68 para. (2) of the code, if a member of the Doctoral committee identifies, in the assessment of the thesis, in the public presentation, serious misconduct from good conduct in scientific research and academic activity, including the plagiarism of the results or publications of other authors, shall be subject to the following obligations:

- The obligation to notify the ethics committee of the higher Education institution in which the PhD student is registered and the Ethics Committee of the institution in which the doctoral leader is employed for the analysis and settlement of the case, including by expelling the PhD student, according to art. 306-310 and 318-322 of the Law No. 1/2011 and the provisions of Law No. 206/2004 on good conduct in scientific research, technological development and innovation;
- the obligation to bring the deviations to the knowledge of the other members of the doctoral Committee and to propose the award of the ' unsatisfactory ' qualification.

According to the provisions of art. 69 para. (5) of the same act, if such a qualification is attributed, the doctoral committee must show the content to be remade or supplemented in the doctoral thesis and calls for a new public presentation of the thesis.

The second public presentation of the thesis takes place in front of the same doctoral committee as in the case of the first one. If the same qualification is obtained at second public presentation, the title of Doctor shall not be granted and the PhD student is expelled.

After the public presentation of the work, it may happen that the National Council for Attestation of titles, diplomas and university certificates (hereinafter referred to as "the CNATDCU") argumentatively invalidates the doctoral thesis, and the institution that organizes studies of Doctoral degree receives from the Ministry of Education, Research, Youth and Sport a written motivation of invalidation, drafted on the basis of the CNATDCU observations. The doctoral work may be retransmitted to the CNATDCU within one year from the date of the first invalidity. If the PhD thesis is invalidated for the second time, the title of the doctor will not be granted, and the student-doctor will be expelled.

It is therefore possible for the plagiarate to be identified prior to public presentation and prior to the establishment of the Doctoral committee, by the doctoral coordinator or any of the members of the

Guidance Committee, who are required not to give their consent to public presentation under such conditions.

Prior to public presentation, but subsequent to the establishment of the Doctoral committee, any of the members of the Commission who finds indications of plagiarism are required to notify the ethics committee of the higher education institution in which it is registered the PhD student and the Ethics commission of the institution in which the doctoral leader is employed for the analysis and resolution of the case, including by expelling the PhD student.

In the context of public presentation, any of the members of the doctoral committee who find that there are indications of plagiarism the publications of other authors, have both the obligation to refer the ethics committee of the higher education institution in which it is registered the PhD student and the Ethics Committee of the institution in which the doctoral leader is employed for the analysis and resolution of the case, including by expelling the PhD student and the obligation to notify the other members of the Doctoral Committee about the deviations and propose the awarding of the 'unsatisfactory' qualification.

After the public presentation, but prior to the granting of the title of Doctor by Order of the Minister of Education, CNATDCU, in the context of the evaluation of the doctoral thesis, has the obligation to observe a possible failure to comply with the standards of professional ethics, including the existence of Plagiarism, in the thesis and/or activities that led to its realization. If such a finding occurs, members of the CNATDCU invalidate the doctoral thesis, communicate these findings to the other members of the evaluation Board and notify the matter to the General Board of the CNATDCU for the analysis of the responsibility of PhD leader or of the doctoral school.

According to the provisions of art. 69 para. (5) of the Code, the General Board of the CNATDCU, notified by one or some of the members of the CNATDCU that evaluate the PhD thesis, may decide to withdraw the quality of doctoral leader and/or withdraw the accreditation of the doctoral school, if the case may be.

These penalties will be applied by taking into account the social hazard of the offence, the manner of plagiarism or violation of the standards of professional ethics, the consequences of such deeds, the possible complicity of the members of the Committees of Evaluation of the thesis, etc. For example, in the context of the individualisation of the Act, the CNATDCU General Council cannot decide to withdraw of the accreditation of the doctoral school, where plagiarism is not coarse/gross, and the institution has taken the incumbent measures upon it according to the law to avoid such situations.

Anyway, according to Order No. 5403/2018 on the establishment of the methodology for the evaluating of doctoral studies and the systems of criteria, standards and performance indicators used in the evaluation, for the accreditation and periodic evaluation of doctoral schools and of doctoral academic studies, the institution of doctoral academic studies must meet certain criteria, standards, performance indicators, including:

- the existence and use of a software and evidence of its use to verify the percentage of similarity in all doctoral theses;
- to allow each doctoral student the access, on request and with the consent of the doctoral leader, to an electronic system for verifying the degree of similarity with other existing scientific or artistic creations.

In the light of the foregoing, it must also be pointed out that the failure to comply with the obligations imposed by law in relation to the discovery and sanctioning of the facts of plagiarism to the members of the Guidance Committee and the Doctoral Committee may be penalised from disciplinary perspective and/or, where appropriate, criminal.¹¹

2. 3. Possible consequences of plagiarism found after the award of the Doctor's title

According to art. 1 para. (3) of Law No. 206/2004, the procedures for the application of disciplinary sanctions provided for in the Code of Ethics and professional deontology of the investigation-development staff are 'brought together in the code of ethics, in compliance with the provisions of this law and of the Law on national education no.1/2011'.

With regard to the power to ascertain the conduct of plagiarism and self-plagiarism and to impose sanctions, it should be noted that it does not lie with the courts. However, the courts may, if they are seised, verify the legality of the administrative provisions issued by the competent bodies under the special legislation in the matter, in particular according to Law No. 554/2004 on administrative litigation, supplemented by common law rules of civil procedure. Under Art. 10 of that law, the substantive settlement of the application requesting the annulment of acts issued by the central organs of the public administration (such as the Minister for Education or the CNATDCU) is the exclusive jurisdiction of the Court of Appeal of the applicant's domicile.

The procedures for the application of penalties under the laws of intellectual property rights are governed by special laws and by the Code of Civil Procedure, and the power to resolve infringement proceedings rests solely with the judicial courts.

According to art. 68 para. (3) of the code, "if the PhD student has fulfilled all the requirements laid down

¹¹ About the possible coexistence of several types of liability, see Simona Cirean Opreșan, "the responsibility of the PhD and the Public presentation Committee of the doctoral thesis for violating the rules of deontology in the work of drawing up the PhD thesis, as regulated in the National Education Act Nr. 1/2011, government Decision No. 681/2011 on the code of Doctoral University studies. The legal nature of the liability, the sanctions and its consequences", in the magazine *The Law*, No. 7/2018, p. 40 and 41.

in the scientific research program and the assessments on the doctoral thesis allow the attribution of the qualification “excellent”, “very good”, “good” or “Satisfactory”, the Doctoral committee proposes to grant the title of Doctor. The proposal shall be submitted to the CNATDCU for validation. CNATDCU, following the evaluation of the file, proposes to the Minister of Education, Research, Youth and Sports to grant or not to grant the title of Doctor.

According to art. 69 para. (1) of the Code, “the title of Doctor shall be awarded by order of the Minister of Education, Research, Youth and Sports after the validation of the doctoral thesis by CNATDCU”.

2.3.1. Referrals via the CNATDCU

After granting the title of Doctor, under the above-mentioned conditions, any natural or legal person, including the members of the CNATDCU and of the doctoral academic study institution, may refer in writing, through the Executive establishment for the financing of higher education, research, development and innovation (public institution subordinated to the Ministry of Education), the General Council of the CNATDCU on non-compliance with quality or professional ethical standards, including the existence of plagiarism, in a doctoral thesis, irrespective of the date of its presentation, and of the date of the award of the Doctor's title.

The importance of complying with anti-plagiarism rules may be drawn from the fact that no limitation period has been foreseen for the finding and sanctioning of such a fact.¹²

If such a referral is recorded, the General Council of CNATDCU shall have a period of 45 days to analyse and decide on the basis of the evaluation of the work within the limits of the referral. In order to resolve the referral, the General Council may consult any other members of the CNATDCU and/or decide to consult external experts. In the choice of these consultants, the lack of any conflict of interest with the author or the doctoral leader must be ensured.

Within the period of 45 days, the General Council of the CNADTCU shall request the institution of Doctoral University studies the opinion on those presented in the referral. The institution shall, in turn, have a deadline of 30 days from receipt of the request to formulate in writing the point of view. If the institution confirms the violation of standards of quality or professional ethics, it shall transmit to the CNADTCU the decision on the proposal to withdraw the title, signed by the Rector or, as a matter of case, by the president of the Romanian Academy, duly endorsed by the Legal view of the university or, in the case, by the Romanian Academy.

Within the period laid down in para. (2) The General Board of the CNATDCU decides whether or not the standards of quality or professional ethics have been complied with, including the existence of plagiarism, and the president of the CNATDCU shall transmit to the author of the referral, to the author of the thesis and to the Doctoral academic studies organisers the decision of the General Council of the CNATDCU and its motivation. These Parties shall have 10 days to formulate any appeal concerning the procedure and the General Board of the CNATDCU has 10 days to respond to the appeal.

Where the General Council of the CNATDCU decides that the standards of quality or professional ethics have not been complied with, including in relation to plagiarism, the president of the CNATDCU proposes to the Ministry of National Education and Scientific Research one or more of the following sanctions, as provided for in art. 170 of the Law No. 1/2011 that refer to the same penalties:

- a) withdrawal of the quality of doctoral leader;
- b) withdrawal of the doctor's title;

The minister, following this proposal, on the basis of the legal opinion of the Ministry of National Education and Scientific Research, has the obligation to take these measures, if any. The Ministry of National Education and Scientific Research shall inform all parties of the provisions issued.

Specifically, with regard to the penalty for the withdrawal of the title of Doctor, the Minister for National Education and Scientific Research shall issue an order¹³ in this respect, in accordance with art. 13 para. (3) of GR No. 44/2016 on the organisation and functioning of the Ministry of National Education and Scientific Research. Under this administrative text, “in the exercise of its duties, the Minister of National Education and Scientific Research shall issue orders and instructions under the law.”

2.3.2. Proposals formulated by CSCS, CEMU or CNECSDTI

According to art. 170 of the Law No. 1/2011, the Ministry may take one of the abovementioned sanctions also on a proposal from the National Council for Scientific Research, the Council of Ethics and university management or the National Ethics Council for Scientific Research, Technological development and innovation.

I. CSCS

According to art. 158 para. (4) of Law No. 1/2011 and the order of the Ministry of Research and Innovation No. 213/2017 on the approval of the regulation on the organisation and functioning of the National Council for Scientific Research and its nominal composition, the National Scientific Research

¹² The absence of a limitation period for the finding and sanctioning of the offence is found in most of the law systems. For example, in Hungary, on 29 March 2012, to the President of the Hungarian Republic, Pál Schmitt, they withdrew his Ph.D. for a thesis presented 20 years before the Olympics, which takes a French text of a Bulgarian author. He was forced to resign from the post of President of the Republic of Hungary on 2 April 2012

¹³ See the order of the Minister for National Education and scientific research No. 6146/21.12.2016, on the withdrawal of the scientific title of Doctor in the field of military science, granted to Mr P.F.C., by Order No. 5837/04.11.2018, issued by the same institution, available at <http://www.cnatdcu.ro/wp-content/uploads/2016/12/pandele.pdf> address, last accessed on 28 January 2019.

Council (hereinafter referred to as “CSCS”) has, among others, the drafting tasks of the reports on the quality of research for the evaluation of doctoral schools. In exercising this task, it may propose penalties such as the withdrawal of the accreditation of the doctoral school, if a violation of the rules on quality or professional ethics is found, including in relation to Plagiarism.

II. CEMU

According to art. 23 of the rules of organisation and functioning of the Council of Ethics and University management, approved by the Order of the Minister of National Education and Scientific Research Nr. 6085/2016 on the establishment of the Ethics and University Management Council and the approval of the regulation on the organisation and functioning of the Ethics and University Management Council, that body (hereinafter referred to as 'the Cemu ') shall rule on the university ethics disputes and examines cases relating to deviations from ethical and university management norms, following referrals or by self-referral, according to the law, after their subject was analyzed in the Faculty/University.

By Art. 24 para. (1) any physical or legal person may refer the matter to the CEMU in relation to non-compliance by a higher education institution or by a member of the university community, inter alia, of the obligations laid down in art. 170 of the Law No. 1/2011.

It is incumbent upon the Cemu to investigate the matters referred to it within 3 months of the date of receipt of the referral. Cemu decisions shall be forwarded to the parties through the Commission's Technical Secretary Department.

The Cemu shall reply to the Ministry, by means of a judgment, within one month from the date of referral, where it is requested to draw up a report assessing compliance with professional ethics standards in relation to doctoral activity, in accordance with the provisions of art. 170 of the Law No. 1/2011. The CEMU shall inform the Ministry of the complaints received and of the judgments adopted.

In conducting its analysis, the CEMU may hear persons directly or indirectly involved in the facts referred to, the sender of the referral, persons from the management of the institutions involved in the facts referred to or independent experts, with the keeping of the privacy.

III. CNECSDTI

According to art. 4 letters b) – e) of the rules of organisation and functioning of the National Council of Ethics of Scientific research, technological development and innovation, approved by the Order of the Ministry of Research and Innovation, the National Council of Ethics of Scientific Research, Technological

Development and Innovation (hereinafter referred to as “cnecsdti”) has the following tasks:

- Monitors the application and compliance with the legal provisions relating to the rules of ethics and deontology in research by the establishments and institutions of the national research, development and innovation system, as well as by the staff of research and development;

- Develops reports with analyses, opinions and recommendations on ethical issues raised by the evolution of science and knowledge and ethics and professional deontology in the research and development activity, which they submit for approval to the MCI Management;

- analyses cases relating to violations of good conduct rules, following complaints/appeals received or by self-referral;

- issues judgments on the cases which they analyse and where deviations have been found, appoint the person or natural and/or legal persons guilty of those deviations and determine the penalties to be applied, in accordance with the law.

In exercising of those tasks, regarding the doctoral theses, may propose the penalties provided for in article 170 of the Law No. 1/2011, if a violation of the rules on quality or professional ethics is found, including in respect of plagiarism, pursuant to art. 158 para. (4) of Law No. 1/2011.

At the same time, according to art. 324 of the Law No. 1/2011, for deviations from good conduct in the Investigation-Development of the staff from the higher education institutions, established and proven, this institution shall establish the application of one or more of the following penalties:

- Written warning;
- Withdrawal and/or correction of all works published in violation of the rules of good conduct;
- Withdrawal of the university teaching title or of the degree of research or degradation;
- Dismissal from the management position of the higher education institution;
- Disciplinary termination of the employment contract;
- Prohibiting, for a specified period, access to funding from public funds for research-development.¹⁴

Conclusion

It is unequivocal that plagiarism makes the world of knowledge more fragile. In this context, it appears to be justified and commendable to the growing concern of the public for the reporting of such facts, particularly in the academic sphere.

¹⁴ By way of example, by Decision no. 13 / 12.07.2018, CNECSDTI concluded that are met all the material and intentional elements that characterize guilty perpetrators of a work of plagiarism deviations and the making of results, applying to them the sanction of prohibition for a period of three years of the access to public funding for research and development and the suspension for a period of five years of the right to enter a competition for a higher position or for a management , guidance and control function position or as a member of the competition commissions. The judgment is published at <http://cne.ancs.ro/wp-content/uploads/2018/10/Hotararea%20CNECSDTI%20%2013%20din%2012%2007%202018%20si%20Raportul%20final%20nr.13.pdf>, last visited on January 28, 2019.

The frequent disregard of the rules of academic conduct is sociologically anticipated in anomic societies, in transition such as the one in which our state was found until recently.

At present, however, in Romania, there is a sustained concern both at the legislative level for the prevention, discovery and sanctioning of plagiarism and regarding the participation of the general public in the reporting of infringements of the rules of conduct concerning the academic thesis on publicly presented doctoral theses.

In this respect, the use of software which estimates, in percentages, of the similarity of the texts in the work subject to analysis with the texts belonging to other authors is extremely useful for detecting violations of the rules of academic conduct. However, it must be pointed out that the results obtained in this way cannot replace the scientific assessments carried

out by experts designated specifically to carry out qualitative analyses of scientific work.

Therefore, the verdicts appearing in public spaces strictly on the basis of such computer applications must be viewed with reserve, especially in areas where the results obtained thus are often invalidated by expertise. This is particularly the case of the legal area, which involves taking over legislative, administrative texts, conclusions from the case-law, but also a restrictive technical language that can, more easily, induce a false positive result of plagiarism.

In any case, for cases of plagiarism confirmed by the competent institutions, the system of sanctions proposed by Romanian law appears to be effective and in agreement with the principles imposed at European Union level for the recognition of diplomas, possible according to Article 53 of the Treaty on the functioning of the European Union.

References

- Viorel Roş, Plagiarism, Plagiomania and Deontology, 2016, available at <https://www.juridice.ro/essentials/475/plagiatul-plagiomania-si-deontologia.>
- Septimiu Chelcea, *textbook* in Socio-human sciences, Comunicare.ro, Bucharest, 2011.
- Simona Cirean Oprişan, “the responsibility of the doctorate and of the Public presentation Committee of the doctoral thesis for violating the rules of deontology in the thesis work, as regulated in the National Education Act No. 1/2011, government Decision No. 681/2011 on the code of Doctoral University studies. The legal nature of the liability, the sanctions and its consequences, magazine, The law No. 7/2018.
- University of Bucharest, guide against Plagiarism, published at the address <http://araba.ils.unibuc.ro/wp-content/uploads/2014/10/Ghid-impotriva-plagiaturii.pdf>.
- The National Ethics Council for Scientific Research, technological Development and innovation, guide for the identification of plagiarism in scientific works, address http://cne.ancs.ro/wp-content/uploads/cne/2017/12/Ghid_identificare_plagiat_Final_site.pdf,
- Jack Lynch, The Perfectly Acceptable Practice of Literary theft: Plagiarism, Copyright, And the eighteenth century, in Colonial Williamsburg: the Journal of the Colonial Williamsburg Foundation 24, No. 4,
- Malcolm Coulthard, Alison Johnson, An Introduction to Forensic Linguistics: Language in Evidence, London and New York, Routledge.
- Heskethpearson, Oscar Wilde: His Life and Wit, Harper & Brothers, New York, p. 87.
- Robert Macfarlane, Original Copy: Plagiarism and originality in Nineteenth-Century literature, Oxford, 2007, address <http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199296507.001.0001/acprof-9780199296507-chapter-3>
- Jennifer Sharkey and Bartowculp, Cyberplagiarism and the Library: issues and solutions, Faculty and Staff Publications – Milner library, 2005.
- Order of the Minister for National Education and Scientific Research No. 6146/21.12.2016, on the withdrawal of the scientific title of PhD in the field of military sciences, granted to Mr P.F.C., by Order No. 5837/04.11.2018, issued by the same institution, <http://www.cnatdca.ro/wp-content/uploads/2016/12/pandele.pdf> address.