

DEONTOLOGY AND ETHICS –SOME DETAILS ON THE VIOLATIONS OF RULES IN SCIENTIFIC RESEARCH ACTIVITY AND THEIR SANCTIONING

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Abstract

This study concentrates on ethics and deontology rules which apply in the scientific research activity and has the aim to outline the main violations encountered in practice and their correlative sanctions. The topic is treated both from a philosophical perspective and from a legal point of view, linking ethical theories with real situations. This analysis illustrates our vision regarding the terminology of academic ethics and also presents the main legal, international and national instruments in this respect. Research findings are presented taking into account the more complex framework of collective morality and highlight the causes for which people are tempted to circumvent imposed requirements.

Keywords: *morals, ethics, deontology, scientific research, violations and sanctions*

1. Introduction

The themes of this study focuses on certain aspects of ethics in general, containing detail mentions with regard to the rules of ethics and deontology as pertaining to the scientific research activity. More specifically, for this theme, we will take into account the possible infringements of the rules invoked, together with their correlative penalties.

The importance of this work comes directly from the main purpose of the intervention, that is, to create a very relevant informational data medium, analyzing elements of a - continuously evolving and of interest - subsection of academic ethics. At the same time, it is a scope, the shaping of an overview of the various evolutions pertaining to ethics in the broadest sense, through the analysis of segments among the numerous theme correlative notions, as well as highlighting changes we can deem fundamental in the field. Giving examples regarding the practical use of the information presented is intended to be completed by the presentation of real situations, through the lens of ethical theories.

The means through which we want to achieve the said scope is that of researching the provisions of international laws pertaining to this field, as well as those of the relevant national legislation, together with the analysis of publications which take into account the philosophical dimension of such concepts. Examining the afore mentioned will lead to an assertion of the main ideas in the area, and of personal theoretical conclusions, all of the said designed in a style that should be accessible to all those interested in this field and not only to the specialists in legal sciences.

By this synthetic analysis, having as a major scope the rules of ethics and deontology in the scientific research endeavors, it is desired to complete the list of available information from the specialized papers at this time. Even if the doctrine cannot be considered insufficient in this respect, it is essential that it be added new research, which meet the challenge of being in agreement, from several perspectives, with this dynamic area.

1.1. Conceptual clarification

Pythagoras claimed that for you, the man, the first law should be that you respect... yourself. Keeping with the same reasoning, we would add that each person is the first judge of their ethics, but “the morals of each individual is rational when analyzed by comparison with the morals of society.”¹. The usage of two concepts, “ethical” and “moral”, the first of Greek origin, *-ethos*, the second having its roots in the Latin *mores*, often overlaps in the common contemporary language. One explanation could be that the basic meaning of the initial terms is the same, namely that of “habit”.

According to Cecilia Tohăneanu², in philosophy, many of the authors³, deem the two terms to have different meaning which, although in close connection, are far from identical. Through the lens of morality, good and evil appear sketched as absolute standards. Just as absolute is deemed the duty of distinguishing between approving what is considered good and blaming, slandering, separating ourselves, as through a wall, (by) what is evil. If this applies to morals, ethics is different at least through the fact that it “approaches good and evil taking into account the imperative of reciprocity between people, the need to facilitate their common life. Thus, the difference between ethics and morals is the social dimension.”⁴. Therefore, for this

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¹ Éric Weil, as invoked by Verginia Vedinaş, *Deontologia vieţii publice (Deontology of Public Life)*, Universul Juridic, Bucureşti, 2007, p. 242.

² Cecilia Tohăneanu, *Noţiuni de filosofie morală (Notions of Moral Philosophy)*, Editura PRO Universitaria, Bucureşti, 2013, p. 11.

³ They include George Cheny, Jean-Marc Coicaud, Daniel Warner.

⁴ Cecilia Tohăneanu, op. cit, p. 12.

dimension we pick as a central term coexistence, while we can look at solidarity, empathy and tolerance as *sine qua non* values of contemporary ethics.

Without attempting to exhaust the meaning of this notion, we should add that the doctrine distinguishes between philosophical ethics and “regular” one, which refers to “a collection of standards in regards to which a group of community of people decide to regulate their behaviour - in order to separate what is legitimate or acceptable in pursuing their goals by that which is not”⁵. On the other hand, in general, philosophical ethics deals with the study of a set of principles, it is a theory about “people's life as people”⁶. While staying within the same scope and continuing with a similar type of classification - general (not exhaustive) - we would like to add that, in turn, philosophical ethics includes two big categories, namely theoretical ethics or “moral philosophy”⁷ and meta-ethics. The later aims to research exactly the notions used for this subject, analyzing the veracity of justifications for the formulated theories.

Moral philosophy draws guiding lines, with the potential of finding applicability in the collective behaviour, regardless of the particular one. Where does my right or liberty begins and where does it end (if it does)? This question started effervescent debates among today's children - the most often we hear “My right ends where yours begins” or “I can enjoy my right as much as I wish, but without disturbing others. They have their rights, too, maybe the same as mine, maybe some others” - and such debates create all the conditions to remind us that two decades ago, the same kind of statements were the leitmotifs of such discussions. “How should people act or behave, what should they do and what they shouldn't?”⁸ is the question theoretical ethics, a normative subject, tries to answer.

Meanwhile, we answer this question daily, due to the fact that many of the dozens of decisions we make imply decisions based upon ethics or morality (most of the times, without even realizing it). In this case, we can legitimately assert that the existence of the principles of this subject matter was embedded in the collective consciousness, the example of the children being just one of the many situations with the potential to be

invoked in support of this idea. The naturalness with which such situations are approached (or not) is reflected both in the private behavior and the collective one, thus we can say, without doubt, that “Morality is so present in our lives that so often we no longer see it... Just in difficult or dilemma inducing situations do we become conscious of the ethical weight or decision making”⁹. It may seem that morality involves many requirements, sometimes seemingly or actually contradictory, and we, rational human beings, find ourselves face to face with the difficulty of choice: what actions are allowed, what actions we shouldn't undertake, and, especially, what are our guiding principles. In essence, this is how the big moral theories were born, true ethical systems containing rules which manage to determine what is correct from a moral standpoint.

At this point of our analysis, we want to note that “they very rarely differ from the recommendations given for the daily, mundane cases (all these theories, for basic situations, tell us we should do pretty much the same thing)”. Regarding differences, we like to add that they appear “more likely... in the justification and theoretical grounds for normative requirements.” Being aware that we are not dwelling in the most appropriate context for analyzing such theories in detail, we believe, however, appropriate to mention the most important ones: deontology - or the theory of the duty of Immanuel Kant, utilitarianism - or “theory of the largest delights”¹⁰ of John Stuart Mill, and, of course, the ethics of virtue - having a founding father in Aristotle.

Continuing our brief classification, we will skip the specificity of descriptive ethics (without wishing to minimize its meaning), in order to approach applied ethics, as it presents elements closer to the focus of this paper. Petre Singer¹¹ is one of the main proponents of this subject and he maintains that the value of rules ranking as principles is confirmed by their direct applicability in various contexts of human activity. Otherwise, aside the fact that it can be considered a script of form without substance, the very theoretical nobility is diluted - “...an ethical judgment with no practical value has a theoretical deficiency, too”¹². Applied ethics is a field of ethics which becomes

⁵ Antony Flew, *Dicționar de filosofie și logică* (Dictionary of Philosophy and Logic) -translated by Drăgan Stoianovici, Editura Humanitas, București, 1996, p. 119.

⁶ Ibid.

⁷ Cecilia Tohăneanu, op. cit., p. 18.

⁸ Cecilia Tohăneanu, op. cit., p. 17.

⁹ Emanuel Socaciu, *Fundamente ale eticii academice* (*Fundamentals of Academic Ethics*), in the paper: Liviu Papadima (Coordinator), Andrei Avram, Cătălin Berlic, Bogdan Murgescu, Mirela-Luminița Murgescu, Marian Popescu, Cosima Rughiniș, Dumitru Sandu, Emanuel Socaciu, Emilia Șercan, Bogdan Ștefănescu, Simina Elena Tănăsescu, Sanda Voinea *Deontologie academică, Curriculum-cadru* (Academic Deontology, Framework Curriculum), Universitatea din București, p.11, (<https://deontologieacademica.unibuc.ro/wpcontent/uploads/2018/10/Deontologie-Academica-Curriculum-cadru.pdf>).

¹⁰ Cecilia Tohăneanu, op. cit., p. 97.

¹¹ He is also the author of several scenarios, the popularity of which is beyond the ethics scope of study. From the analysis of such practical cases, one can understand the principle that we have the moral obligation to prevent a bad thing from happening, when it is in our power to do it, without having to make great sacrifices. For details and examples, please consult Emilian Mihailov, Mihaela Constantinescu, *Ce sunt teoriile etice și de ce ne sunt utile?* (What Are Ethical Theories and which is Their Use?) in the paper: Emanuel Socaciu, Constantin Vică, Emilian Mihailov, Toni Gibea, Valentin Mureșan, Mihaela Constantinescu, *Etică și integritate academică*, (Ethics and Academic Integrity) Editura Universității din București, 2018, p. 33.

¹² Peter Singer, *Practical Ethics* (personal, unauthorized translation), Cambridge University Press, Cambridge, 1993, pag. 2.

stronger and stronger nowadays and refers to the application of ethical principles in certain domains of activity, being made up of rules adapted to the specificity of the respective (professional) activity. As an example, we mention the following subdivisions or directions of applied ethics: medical ethics, political ethics, environment ethics, animal rights ethics, ethical aspects regarding technology and digital issues, administrative ethics, legal ethics, academic ethics. A practice gaining popularity is the codification of specific rules for each domain through instruments with a “particular” title, which don't have a general applicability but intended recipients, like, for example, a certain professional group.

2. Content

2.1. Academic Ethics. Essential elements.

Next we will cover a segment of academic ethics, namely the rules of ethics and deontology in the scientific research activity. Even if certain elements of the aforementioned seem not to be in direct connection with our topic, we believe they constitute a greatly summed up presentation of the notions with which we shall work, that could not be eliminated, for the sake of consistency. Moreover, “the common morality” and the important historical theories of ethics are useful for contextualizing and understanding situations specific to academic ethics. Reader PhD Emanuel Socaciu¹³ states that “It would be strange should we discover that the ethical duties we have as professors, researchers or students are constantly contradicting our more general duties we have as human beings” - an opinion we support and regarding which we would like to add that the relationship between the two can be seen as one from the whole to the part but that, exactly this interaction represents, at the same time, the reason for which we might find ourselves in a dilemma - something harder to identify in practice, but plausible.

Customizing, academic institutions or organizations are susceptible of being one of the “spaces” where acts which contradict morality take place, because the people who work under the coordination of or for the said institution find themselves, as we all do, in the situation of having “... morally debatable options, because we don't find in ourselves the means to resist temptation”¹⁴. Thus, they are also subjected to “akrasia”¹⁵. Moreover, the above

are valid because the subject matter of academic ethics is the result of the convergence of multiple aspects, including some regulatory ones, having to do with research ethics, professional ethics, but also the management of ethics and integrity in academic organizations.

To the extent in which we will continue to illustrate the main breaches of ethics and deontology rules in the scientific research activity, as well as the ways to punish such breaches, we deem it important to start from establishing which are the possible causes making a person commit these breaches. One of the situations for which we could find relatively convenient solutions (but which is surely not the main cause for immoral or illicit actions) would be that in which people breach the rules because they do not know them, they do not know their obligations – “The morality deficit is not, most of the times, generated by a lack of knowledge”¹⁶. In such a hypothesis, accessing the information or conceiving and implementing an educational program in this regard could be a salutary, immediately applicable solution. Still, studies show that most of the breaches are committed knowingly, the lack of motivation to do things right from the moral standpoint being the missing element - and thus the link to akrasia. However, we believe in the importance of being informed and debating, in the fact that the aforementioned give birth to the premises which can create the intrinsic will to have an appropriate behaviour.

Before restricting the scope of our approach to the juridical dimension of ethics and deontology in the scientific research activity, we would add a few conceptual considerations connected with the “interferences” between morals/ethics and law, meant to support us in the following analysis.

According to Kant, in relation to its “decisive impulses”¹⁷, the law can be of two types - juridical (which institutes obligations) and, respectively, ethical (“the idea of duty resulted from the law is, at the same time, the impulse to action”¹⁸). Therefore, the philosopher underlines that legality refers exclusively to compliance with the law (morals), while “morality means the determination of will by the moral law, to act based upon the respect for the moral law, no matter the consequences the human action will bring”¹⁹. Duty appears as a common element between law and morals, but both have ample specificity²⁰. In connection to them we will limit ourselves to mentioning two aspects. First

¹³ Emanuel Socaciu, *Introduction* to the paper: Emanuel Socaciu, Constantin Vică, Emilian Mihailov, Toni Gibea, Valentin Mureşan, Mihaela Constantinescu, op. cit., p.12.

¹⁴ Emanuel Socaciu *Introduction*, p. 11.

¹⁵ *Ibid.* *Akrasia (Weakness of the will) is the term used by Aristotle to describe the characteristic of human beings which produces their typical deficit of morality.*

¹⁶ *Ibid.*

¹⁷ Verginia Vedinaş, op. cit., p. 54.

¹⁸ Immanuel Kant, *Scrieri moral-politice, Introducere în metafizica moravurilor (Moral and political writings, Introduction to the metaphysics of morals)*, Biblioteca de filosofie, Clasicii filozofiei universale, Editura Ştiinţifică, Bucureşti, 1991, p. 77 – invoked by Verginia Vedinaş, op. cit., p. 54.

¹⁹ Verginia Vedinaş, op. cit., pp. 54-55.

²⁰ For details, see Verginia Vedinaş, op. cit., pp. 55-60.

of all, the laws represent the encoding of rules meant to keep the social peace and equilibrium and don't have universal applicability, as it should happen in case of moral rules. Probably, in an ideal society, the laws would pass the moral test and between the two concepts there would be an almost complete overlap, but in our situation, here is the first major difference: only the obligations having a juridical nature can be imposed by using coercion, too.

But what is the place of deontology (*deontos* means what is appropriate, *logos* - science) in this scheme? Because it refers, in essence, to the rules pertaining to the exercise of a profession, we find deontology at the border between law and morals, or, more likely, in the convergence area of the two. It shows characteristics of both concepts – for example, a set of rules which regulate a type of professional behaviour. Part of those rules are established through legislation or contracts; the other category deals with rules which cannot be imposed by coercive force, the person's conduct being possibly sanctioned at most by the public opinion (moral rules)²¹. We cannot neglect the fact that there is a tendency to codify multiple deontological norms, for example, in a Code of Ethics, which can suggest, leaving differences aside, the thin demarcation line between “legal” rules and moral ones.

The successful achievement of professional ethics stipulations could be translated by the fact that the “reciprocal expectations²²” of a professional community and those of the community in general could be fulfilled, the general success being interdependent upon the fulfillment of obligations by both “parties”. An obvious trend is present also regarding academic ethics, respectively the ever growing preoccupation²³ for it, which, although referring also to elements which were subject of debate “from the dawn of modernity... the field experienced a significant self reliance in the last 20-25 years, especially as a need to give an articulate theoretical answer to requests coming from bodies funding research and education, and from the public opinion, too”²⁴. For the academia, given its nature, we think it is absolutely normal that society has expectations, hopes, higher wishes regarding ethics, and doesn't limit itself exclusively to the aspects stated by legal norms.

Narrowing the area of our discussion to the ethics of scientific research, we wish to underline that the elements related to it show a variety of forms, which should answer to an entire palette of equally challenging issues, which manifest starting from choosing a theme through bringing results into the public space and obtaining an eventual profit. The

doctrine shows the analysis of two meanings of this concept; the first refers to scientific ethics seen as an “area of theoretic reflection, in which moral dilemmas which can appear in the research activity appear, or... normative proposals for the approach of such dilemmas”²⁵. Obviously, the dilemmas are very varied, each field of research having its own specific issues, “classic” in this regard, but there can be new issues with the development of each particular case.

A second meaning of the notion we bring into discussion takes into account an institutional system, through which the regulations in force pertaining to the matter are put into practice. Among others, it contains the bodies which grant an opinion on ethics for a research project, but also those which supervise compliance with regulations, or work to their development, in order to harmonize it with the new social developments²⁶.

2.2. The legal dimension of ethics and deontology in scientific research.

2.2.1. Historical perspective, international rules

The great number and diversity of issues which can appear in this matter, as well as the specificity of each particular research field - aspects we already mentioned - are factors which make the application of good practices and customs popular, but which, at the present time, the legal stipulations can no longer be ignored, and they institute a pretty comprehensive framework. The rules of ethics and deontology in scientific research which are applicable in our country, too, are stated, mainly, at the following levels: international, European Union, national or of the various institutions involved in the process of education and research. An essential role in respect to the understanding and interpretation of such provisions is played by jurisprudence.

These rules were absolutely necessary, given the subjectivity with which each individual appreciates what is allowed or not from the academic ethical and deontological point of view. Thus, “benchmarks for human behaviours... rules through norms coming with sanction which can be applied generally, undifferentiated based upon the spatial or temporal context, and impersonal, undifferentiated based upon the respective actors or the researched subject”²⁷ are imposed. We would also like to add that the rules in question have as a scope both research itself and the exploitation of the research results.

Below there are, selectively, some of the international regulations relevant in the field. The

²¹ According to ideas presented by Verginia Vedinaş, op. cit., pp.112-124.

²² Emanuel Socaciu, *Fundamente ale eticii academice (Basics of Academic Ethics)*, p. 9.

²³ As an example we mention one of the very renowned publications on this subject, *Journal Academic Ethics*, edited at Springer. This can be consulted at the address: https://scholar.google.ro/scholar?q=journal+of+academic+ethics&hl=en&as_sdt=0&as_vis=1&oi=scholar, accesata la data de 31.01.2018.

²⁴ Emanuel Socaciu, *Fundamente ale eticii academice (Basics of Academic Ethics)*, p. 9.

²⁵ Emanuel Socaciu, *Fundamente ale eticii academice (Basics of Academic Ethics)*, p. 10.

²⁶ According to the above mentioned, we agree with the opinion of PhD Associate Professor Emanuel Socaciu.

²⁷ Simina Elena Tănăsescu, *Standarde și reglementări (Standards and Regulations)*, in the paper: Liviu Papadima (Coordinator), op. cit., p. 37.

Declaration of Helsinki²⁸, which has as its principal regulatory object medical research on human subjects, establishes a series of guidelines in this respect. By way of example, we mention: in research involving human subjects, their welfare shall prevail over any scientific or social interest; experimental procedures should be detailed in a protocol which must be submitted for the approval of the Revision Committee for Ethics; the participants in the study must agree, having been informed; informed consent must be documented; consent must be obtained under such conditions as to reduce to a minimum any inappropriate influence; the subjects participating in the study have the right to protect their own integrity. Another tool for the international coding of rules regarding conduct in medical scientific research is the Oviedo Convention, which regulates elements regarding bioethics and human dignity²⁹.

The rules governing today's scientific research in the medical field (involving human subjects) were designed as the international community's response to immoral medical experiments performed over time worldwide and culminated with those occurring during the Nazi regime³⁰. According to the Scientific Research Ethics Committee of the University of Bucharest, after Second World War, appalling abuses committed by some Nazi doctors were discovered. These subjected the prisoners to inhumane scientific experiments, because of which, most often, death occurred (Acad. M. Dinu Antonescu, president of the National Bioethics Commission for Medicines and Medical Devices provides the following examples in an interview: Dr. Joseph Mengele - experiments on twins at Auschwitz; Dr. Sigmund Rascher -freezing experiments at Dachau and Auschwitz; Dr. Erwin Ding Schuler -immunization experiments at Sachsenhausen, Dachau, Natzweiler, Buchenwald). All these occurred without informing the "patients" and, obviously, without their consent. Classified as crimes against humanity, the acts were tried at the Nuremberg Tribunal and have resulted in "adopting a first code of good moral conduct in scientific research, inspired by this historical episode's mistakes: the Nuremberg Code"³¹. Please note that the

new elements introduced by this Code were: "informed consent; risk-benefit analysis (development of a theory of risk in ethics); recognition of subject's right to withdraw of the experiment at any time, without being penalized"³².

Because drawing up a complete list of international legal norms regarding ethics and deontology in scientific research would demand a separate study, having it as it's main object, we will limit ourselves to name juridical instruments which are interesting through the fact that, although this is not their main scope, they contain stipulations regarding scientific research correlative to the field they regulate. We consider the following: The Treaty on the Non-proliferation of Nuclear Weapons³³; The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons and on their Destruction (opened for signature at London, Moscow and Washington on April 10, 1972)³⁴; the international conventions on chemical or biological weapons.

We cannot end the segment dedicated to international regulations without reference to the Universal Declaration of Human Rights - adopted and proclaimed on 10 December 1948 by the UN General Assembly, by resolution 217- which was designed to become "a common standard of achievement for all the peoples of the world, thus gaining the vocation to become a true fundamental law of humanity"³⁵. The preamble of the declaration begins with the following words: "Whereas recognition of the inherent dignity of all members of the human family and of their equal and inalienable rights is the foundation of freedom, justice and peace in the world...", which gives an essential meaning to the value of dignity, which is reiterated in the first sentence of Article 1: "All human beings are born free and equal in dignity and rights." Even if we can not support that this Statement refers explicitly to academic ethics, it has a special importance, because it is an indisputable source for the theme of ethics in general. We are arguing this idea because liberty, justice and peace in the world have as a basis, aside equal and inalienable rights for all persons (thus, also

²⁸ Adopted at the 18th General Assembly of the World Health Organization, 1964; over time, it has undergone multiple revisions, in order to be consistent with scientific and social evolutions.

²⁹ See the Official Gazette no. 103 of February 28, 2001, Decree no. 51 of February 20, 2001, promulgating the law on the ratification of the European Convention for the Protection of Human Rights and Dignity of the Human Being with regard to Applications of Biology and Medicine, the Convention on Human Rights and Biomedicine, signed in Oviedo on April 4, 1997, and the Additional Protocol to the European Convention for the Protection of Human Rights and Human Dignity regarding the Application of Biology and Medicine, on the prohibition of cloning human beings, signed in Paris on January 12, 1998.

³⁰ For a detailed analysis of the deontology of research on human subjects, do consult the study of professional Deontology of Research on Human Subjects, available at this address: http://www.academia.edu/12727370/DEONTOLOGIA_CERCET%C4%82RII_PE_SUBIEC%C5%A2I_UMANI, accessed on 1.02.2019.

³¹ The Scientific Research Ethics Commission of Bucharest University's website, <http://cometc.unibuc.ro/scurt-istoric.html>, accessed on 1.02.2019.

³² Ibid.

³³ According to the website of the Ministry of Foreign Affairs (<https://www.mae.ro/node/2015>, accessed on 02.01.2019), it was opened for signature on July 1, 1968, and entered into force on March 5, 1970. This includes currently 189 signatories. Initially, it was established that the treaty duration be 25 years from entry into force. At the Review Conference examining the enforcement of the Treaty's provisions of 1995, it was extended indefinitely. North Korea announced unilaterally, in 2003, its withdrawal from the Treaty, and Israel, India and Pakistan are not parties.

³⁴ Entered into force on March 26, 1975.

³⁵ Gabriel Iosif Chiuzbaian, the Declarația Universală a Drepturilor Omului - izvor de drept (The Universal Declaration of Human Rights - source of law), in the magazine "Drepturile Omului" No 4/1994, pp. 6-8, cited by Verginia Vedinaș, op. cit., p. 74.

in front of moral norms), the recognition of their inherent dignity. Dignity is, also, a special value from the perspective of moral philosophy, Kant himself being the supporter of the idea that the one who is moral would not be necessarily happy, but will obtain something much more important, namely the dignity of being happy.

Mentions about dignity, considered to be a “general human value”³⁶, also appear in those constitutional stipulations which can be considered as sources for ethics. The first indication of this is found in the very first article of the fundamental law, specifically the third paragraph, which lists the supreme values guaranteed by the state: “...human dignity, the citizens' rights and freedoms, the free development of the human personality, justice and political pluralism”³⁷.

Another relevant stipulation is article 30, which enshrines, in the first paragraph, the freedom of expression, considered an essential value for any democratic society: “Freedom of expression of thoughts, opinions, or beliefs, and freedom of any creation, by words, in writing, in pictures, by sounds or other means of communication in public are inviolable.”³⁸. Of course, this is not an absolute freedom, it is subject to legal restrictions, in order to protect other essential values for society, next to which the freedom of expression must coexist. As exactly the same article governs, one of these values is dignity - “Freedom of expression shall not be prejudicial to the dignity, honour, privacy of a person, and to the right to one's own image.”³⁹.

Among the myriad constitutional provisions relevant for the ethics field, we would like to add article 57, because we deem it relevant for the scope of the present study. It establishes two essential legal principles for the regime of rights and liberties, respectively good faith in exercising them and the respect for other persons' rights. The obligation to respect these principles is incumbent on both Romanian citizens and foreigners and stateless persons. The concept of bona fides is a traditional principle of civil law, but it was and will be a key concept of morality⁴⁰.

The fundamental law is again that which, through article 148, second paragraph, consecrates the priority of European Union law over opposite stipulations in the internal legislation. Among the priority laws should be considered, besides the European Union's primary legislation, the derivative one (but only the mandatory acts - the regulation; directive and decision, for recipients); also, in certain cases, the norms coming from external commitments, jurisprudence, general principles of law. Without detailing the technical and

juridical issues such a priority implies, or the numerous situations in which this constitutional article finds applicability, we deem relevant in the present context to underline that there are various regulations at the level of the European union which have, among others, as their scope the ethics in the scientific research. We give as an example Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the ownership of the laws, regulations and administrative provisions of the Member States relating to the implementation of good clinical practice in the conduct of clinical trials on medicinal products for human use⁴¹.

Related to scientific research at European Union level we add, as a curiosity, that there is a guide for this subject matter, which suggests focusing exclusively on the non-military, civilian research activities. It is interesting to follow this guide, which we consider will have an evolution in the direction of opening also towards “military research”, for the purpose of collective defense, given the international contemporary context, but also current challenges, like the threat posed by terrorism, which the European construct must face.

2.2.2. Internal regulations - possible violations and sanctions

Nationally, there are a number of regulatory documents governing, from different perspectives, academic ethics and integrity. We will give a short selection of those we consider relevant for the matter of ethics and deontology rules in the activity of scientific research, underlining the most common violations appearing in practice, as well as their correlative sanctions. A specialized journal expresses the idea that “using scientific research methods implies, ipso facto, compliance with deontological and ethical rules which form integrity regarding research”⁴²- an opinion we support -, agreeing, also, that “it cannot be a valid method of scientific research that which does not respect the deontological and ethical rules”. Examples are given of : plagiarism, falsifying scientific data, eliminating some results invalidating the hypothesis which is supposed to be demonstrated by the act of research.

The framework for research and development activities is established through the Government Ordinance no. 57/2002 regarding scientific research and technological development and contains: “scientific research (which includes fundamental and applied research), experimental development and

³⁶ Vasile Morar, *Moralități elementare (Elementary morality)*, Editura Paideia, București, 2001, p. 16.

³⁷ The Romanian Constitution, as amended and supplemented by the Law on the Revision of the Constitution no. 429/2003.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ For more details, see Mihai Constantinescu, Antonie Iorgovan, Ioan Muraru, Elena Simina Tănăsescu, *Constituția României Revizuită, comentarii și explicații*, (Romanian Constitution Revised, Comments and Explanations) Editura All Beck, București, 2004, p. 114.

⁴¹ Published in the Official Journal of the European Union L 121, 1.5.2001, pp. 34-44.

⁴² Gheorghe Bocean, *Revista Română de Dreptul Proprietății Intelectuale (Romanian Revue of Intellectual Property Law)*, nr. 2(55) iunie 2018, p. 10.

innovation based upon scientific research and experimental development”⁴³.

The Order no.4492/2005 on the promotion of professional ethics in universities establishes the obligation of accredited or authorized to operate provisionally higher education institutions to adopt a Code of Ethics of the University, which should stipulate for the ideals and principles, but also the standards of professional ethics which the members of the concerned academic community shall undertake to comply with. The code of ethics is mandatory and, as a general rule, is part of the Charter of the University⁴⁴, containing also correlative sanction for the failure to comply with the obligations imposed. A new requirement the institutions need to comply with, according to this Order, is that of establishing, coordinated by the University Senate, a University Ethics Commission, having attributions related, mainly, to the analysis and settlement of claims regarding breaches of university ethics. All the University commissions of accredited or authorized to operate provisionally higher education institutions are monitored, can receive consultancy on the development and application of ethic codes. Practically, they are in a certain measure subordinate to the University Ethics Council, established at the Ministry of Education, as stipulated in the aforementioned Order.

We believe, however, that the legislative act which represents the principal basis of the subject matter of our analysis is the Law no. 206/2004, with subsequent amendments and supplements, on the proper conduct in scientific research, technological development and innovation. In article 2¹ it states the facts which constitute violations from the rules of good conduct (referring both to research itself and to its evaluation and exploitation of results), as long as they are not considered crimes under criminal law. In order to emphasize the variety of violations that are likely to take place in practice, we will indicate a number of them, as they are covered by that Article:

- making up results or data and presenting them as experimental data, as data obtained through calculations or numerical computer simulations or as data or results obtained through analytic calculation or deductive reasoning;
- forging of experimental data, data obtained through calculations or numerical computer simulations or of data or results obtained through analytic calculation or deductive reasoning;
- deliberate hindering, blocking or sabotaging the research and development activity of other persons, including by unjustified blocking of access to research and development premises, through the damaging,

destroying or manipulating experimental equipment, equipment, documents, computer programs, data in electronic format, organic or inorganic substances or living matter needed by other persons for running, carrying out or completing research and development activities;

- plagiarism;
- self plagiarism;
- the inclusion in the list of authors of a scientific publication of one or more of the co-authors who have not contributed significantly to the publication, or the exclusion of co-authors who have contributed significantly to the publication;
- failure to observe confidentiality in assessment;
- the discrimination, within the framework of the assessment, on the grounds of age, ethnicity, gender, social origin, political or religious orientation, sexual orientation or other types of discrimination, with the exception of affirmative measures stipulated by law;
- abuse of authority in order to obtain the status of author or co-author of publications by subordinates;
- abuse of authority to unduly impose their own theories, concepts or results on subordinate persons.

In order to outline the complete framework of violations of good conduct in the scientific research activity, the provisions of Law no. 206/2004 must be read in conjunction with those of other normative acts. Among them, Law no. 1/2011, as mentioned right in Law No 206/2004, article 4, second paragraph: “Serious deviations from the proper conduct in the research and development activity are those referred to in Article 310 of Law no. 1/2011”. This is the article text: “It is a serious offense against the conduct in scientific research and academic activity to: a) plagiarize the results or publications of other authors; b) make up the results or replace results with fictitious data; c) introduce false information in applications for grants and funding”. We note, however, that this correlation between provisions of multiple laws establishing provisions on the ethics and deontology of scientific research must be carried out continuously and as a whole, as is the case for any subject matter, not only in the case of these specific references. By way of example, we note another provision of the National Education Law which has a bearing on our subject, namely that which provides for the establishment of the Council for University Ethics and Management, as a body of the Ministry of National Education, unincorporated and aimed at developing the culture of ethics and integrity in Romanian Universities⁴⁵.

Returning to Law no. 206/2004, in its provisions we can also find the procedures, but also the competent bodies which are to establish whether or not an

⁴³ Valentin Mureșan, Mihaela Constantinescu, *Reglementări privind etica în universitățile din România, (Rules Concerning Ethics in Romanian Universities)* in the paper: Emanuel Socaciu, Constantin Vică, Emilian Mihailov, Toni Gibea, Valentin Mureșan, Mihaela Constantinescu, op. cit., p. 50.

⁴⁴ An illustrative example are the Charter and the Code of Ethics (part of the Charter) of Nicolae Titulescu University of Bucharest, available on the website <http://www.univnt.ro>.

⁴⁵ Valentin Mureșan, Mihaela Constantinescu, *Reglementări privind etica în universitățile din România, (Rules Concerning Ethics in Romanian Universities)* in the paper: Emanuel Socaciu, Constantin Vică, Emilian Mihailov, Toni Gibea, Valentin Mureșan, Mihaela Constantinescu, op. cit., p. 51.

infringement was committed. In case the answer is yes, one or more sanctions, as the case may be, could be applied, by the management of the unit where the person who is the author of such infringement activates or by the National Council for Ethics⁴⁶ – while in compliance with the procedures established by the present law. Of these, we mention:

- written warning;
- the withdrawal and/or correction of all the works published by breaking the rules of good conduct;
- reduction of the basic salary, combined, where appropriate, with the management, guidance and control pay;
- the dismissal from the management of the institution of research and development;
- the withdrawal of the academic teaching title or the degree in research or demotion;
- the disciplinary termination of employment contract.

3. Conclusions

The complexity of the subject we analyze is also reflected in the planned regulations applying to it, which is why we did not propose a thorough analysis of them, but wanted to give an overview that can be considered a starting point for further research and extensive peer review. On this line, we will add a few more normative acts which are important in the study

of the matter: The Code of Professional Ethics and Deontology of Workers in Research and Development; Law no. 64/1991 regarding patents, republished, with subsequent changes and additions; Law no. 129/1992 regarding the protection of drawings and industrial models, republished; Law no. 8/1996 regarding copyright and related rights, with subsequent changes and additions; The Code of Academic Doctoral Studies.

As mentioned, the academic ethics field is a complex one, and at the moment it surely passes through a transformation that we courageously call evolution (or, at least, we dare to hope that this is the manner it will finally result), despite turbulent times which, we must admit, affect it (or, more properly said, affects its authors).

Certainly, our study did not exhaust elements pertaining to theories, ethical principles, practical examples, nor the aspects of the juridical dimension regarding the violation of ethical and deontology rules in the activity of scientific research, reason for which we express our conviction that this analysis will be expanded in future research.

As we began by remembering Pythagoras's words, respectively "your first law should be to respect yourself", we will close by underlining Nicolae Bagdasar's words, presented in the introduction to one of the works of Immanuel Kant⁴⁷: "... act outwardly in such a way that the free use of your own free will may coexist with everyone's freedom, according to a universal law..."⁴⁸.

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⁴⁶ Art. 326 of Law no. 1/2011 establishes the bodies or persons entitled to bring into force the sanctions dictated by the National Ethics Council.

⁴⁷ *Întemeierea metafizicii moravurilor, Critica rațiunii practice*, (The founding of the Metaphysics of Morals, Critique of Practical Reason,) Scientific Publishing House, Bucharest, 1972, p. IX

⁴⁸ Nicholae Bagdasar, as was shown by Virginia Vedinaș, op. cit., p. 55.

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- *Law no. 8/1996 regarding copyright and related rights, with subsequent changes and additions;*
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