

THE LIABILITY OF THE DOCTORAL STUDENT FOR VIOLATING THE RULES OF ETHICS AND DEONTOLOGY DURING DOCTORAL STUDIES (REPORTS, STUDIES, ARTICLES, PRESENTATIONS AT CONFERENCES, PREPARATION OF DOCTORAL THESIS)

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Abstract

The present study addresses the issue in its title, starting from the definition of the general concepts of ethics and deontology, continuing with some regulations from Romania that concern norms of university ethics and deontology, their violations and procedural aspects in the case of finding the commission of such acts - their analysis being carried out from the perspective of the form of legal liability incurred, then, making an examination of the existing factual situation in this matter in the Republic of Moldova, highlighting the similarities and differences between some of the regulations of the two states mentioned above, and passing, finally, to the presentation of the conclusions drawn from the entire analysis carried out within the study.

Particular attention was paid to the issue of the originality of the doctoral thesis and especially to the issue of plagiarism, examined including in correlation with copyright, the problem of the difficulties in detecting signs of plagiarism in some situations and the inequity in its detection, as well as the issue of the legal consequences of the detection of the existence of plagiarism, including in terms of the procedures carried out after the respective finding, from the perspective of the framework law currently in force, the drafting of which also took into account the CCR jurisprudence in relation to the way of resolving a notification regarding the suspicion of plagiarism on a doctoral thesis following the presentation of which the author was awarded the title of doctor.

Last but not least, the present study, the elaboration of which involved, among other things, the consultation of relevant materials from the specialised literature, includes, in addition to highlighting the superior quality of some current regulations, several critical observations of the author, in consideration of which he formulated appropriate de lege ferenda proposals.

Keywords: *liability, doctoral student, ethics, deontology, integrity, scientific research, doctoral thesis, copyright, originality, similarity, plagiarism, misconduct, sanction, comparative law, de lege ferenda proposals*

1. Introductory aspects

In order to examine liability which is the subject of this study, it is first necessary to take into account the definition of doctoral studies provided for in art. 61 para. (1) sentence I of Law no. 199/2023 on higher education¹, in conjunction with Annex no. 1 to GD no. 918/2013 regarding the approval of the National Qualifications Framework², with subsequent rectification and amendments, respectively in art. 4 point a) of the Code of Doctoral Studies, approved by GD no. 681/2011³, with subsequent amendments and additions, as well as in art. 2 point a) and art. 3 of the Framework regulation on doctoral studies, approved by Order no. 3020/2024 of the Minister of Education⁴.

Achievement of the aim of the scientific doctorate - „the production of original, internationally relevant scientific knowledge”, as stated in art. 61 para. (6) point a) sentence I of Law no. 199/2023, art. 42 para. (1) point a) sentence I of the Code of Doctoral Studies, with subsequent amendments and additions, and art. 7 para. (1) point a) sentence I of the Framework regulation on doctoral studies - implies that the use of scientific research methods by the doctoral student, up to the public defence of his doctoral thesis, must be subject to compliance with the rules of university ethics and deontology referred to in art. 161 of Law no. 199/2023.

Romania's concern for the observance of university ethics and deontology in the conduct of doctoral scientific research was also manifested by the issuance of Order no. 3131/2018 of the Minister of National Education, regarding the inclusion in the *curricula* of all university study programmes organised in higher education institutions in the national education system of courses on academic ethics and integrity⁵, regulation taken over in art. 28 para. (10) of Law no. 199/2023.

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² Published in the Official Gazette of Romania, Part I, no. 734/28.11.2013.

³ Published in the Official Gazette of Romania, Part I, no. 551/03.08.2011.

⁴ Published in the Official Gazette of Romania, Part I, no. 56/22.01.2024.

⁵ Published in the Official Gazette of Romania, Part I, no. 140/14.02.2018.

Because the regulations regarding the university ethics and deontology do not define these terms, which are often used together and treated as synonyms - which is an incorrect approach, given that they correspond to scientific disciplines with a distinct object of study⁶ and are sometimes replaced by the term „integrity” or expression „good conduct”, it is necessary to explain them.

Thus, in the Explanatory Dictionary of the Romanian Language⁷, the term „ethics” is defined as „the science dealing with the study of moral principles, their laws of historical development, their class content and their role in social life”, which means that it includes moral values and norms and is a science of moral behaviour, and the term „deontology” is explained as the totality of rules of conduct and ethical obligations specific to a profession or as the theory of duty, moral obligations, implying that the latter term is concerned with the correctness of the actions or inactions themselves in the exercise of a profession.

Referring to ethics, the doctrine⁸ has found that it is based on the category of duty, „since duty constitutes a social necessity expressed by the moral demands made on the personality”, by fulfilling the requirements of duty, the personality becomes „an exponent of certain moral obligations before society, which he conceives and realises in his professional activity”, in fulfilling his duties, proving his full, creative commitment and assumption of risks, thus having the feeling of personal sacrifice.

As far as deontology is concerned, it has been noted in the specialised literature⁹ that it „investigates rights in correlation with the duties that support them and carries out research in the spheres of social-utile life and not only in the special spheres of work producing goods and values”.

It has also been pointed out in doctrine¹⁰ that a deontological code is „the bridge, but also the link between the sphere of moral values and that of legal values” - such a code originates from the need to recognise and impose a set of moral values in a given field of activity as a general rule, accompanied, however, by a coercive system to guarantee their observance; however, from the moment when the coercive force of the State comes into action, either by its imminence (preventive role) or by its actual triggering (punitive role), the purely moral value becomes a legal value, with all the consequences that flow from such a qualification”.

2. Rules of university ethics and deontology and conducts that may give rise to legal liability of the doctoral student for violating these rules at present

Considering the specific nature of the scientific research activity carried out by any doctoral student in this capacity until the public presentation of his/her doctoral thesis, the rules of university ethics and deontology that a doctoral student, in general, must respect are laid down in art. 167 points a), b) and d) of Law no. 199/2023, which concerns the activity of academic research, the activity of communication, publication, dissemination and scientific popularisation, as well as respect for the human being and human dignity.

De lege lata, in the absence of adoption/issuance of the normative acts provided for in art. 161 para. (2) points a)-c) of Law no. 199/2023 and to the extent that no university ethics and deontology codes have been adopted on the basis of this law, rules such as those mentioned above are widely found in the academic ethics and deontology codes adopted at the date of entry into force of the aforementioned law.

Thus, implicitly referring to the rules in the first and third categories above, the provisions of art. 21 of the Ethics and Professional Deontology Code of the „Babeş-Bolyai” University of Cluj-Napoca¹¹, provide that, in scientific research, integrity implies, among other things: „accepting and mentioning as authors of a work only those persons who actually participated in its elaboration” [point a)]; „avoiding plagiarism of any kind and respecting intellectual property rights, including those deriving from joint ownership of data in the case of research carried out in collaboration with a supervisor or other researchers”, the validation of new findings based on the repetition of previous research/experiments being „admissible, provided that the data are confirmed and explicitly cited” [point b)]; „indication of the source from which an idea, an expression, a result of previous research has been taken, whether or not it has been published” [point c) sentence I]; „explicit acknowledgement of the contribution of any person who has actually participated in a research activity”, if the contribution

⁶ V. Capcelea, *Ethics and civilised behaviour*, second edition, revised and added, Pro Universitaria Publishing House, Bucharest, 2022, p. 55 and 56.

⁷ See <https://dexonline.ro>, accessed on 10.01.2024.

⁸ V. Capcelea, *op. cit.*, p. 57.

⁹ *Idem*, p. 59.

¹⁰ L.M. Dima, C.M. Marcu-Şiman, *Critical considerations on ethical liability considering the Law no. 206/2004 on good conduct in scientific research, technological development and innovation*, in *Revista Română de Dreptul Proprietăţii Intellectuale* no. 2/2022, <https://asdpi.ro/index.php/ro/anul-2022/108-ro-rrdpi-2022-2/786-consideratii-critice-pe-marginea-raspunderii-etice-in-lumina-legii-nr-206-2004-privind-buna-conduta-in-cercetarea-stiintifica-dezvoltarea-tehnologica-si-inovare>, accessed on 10.01.2024.

¹¹ See <https://www.ubbcluj.ro/ro/despre/organizare/files/etica/Codul-de-etica-si-deontologie-profesionala.pdf>, accessed on 11.01.2024.

consisted only of a supervisory or advisory activity, not requiring „a formal acknowledgement of the contribution” and recommending „the inclusion of a thank you note” [point d)]; „compliance with special ethical rules relating to research involving human subjects or experiments with animals and any other elements of research ethics” [point h)]; that the research is carried out „in the spirit of and with due regard for ecological and biological ethics” [point i)].

Among the deviations from the rules of ethics and deontology in academic research activity presented in art. 168 para. (1) of Law no. 199/2023, those that may be committed by a doctoral student before the public presentation of his/her doctoral thesis are the following: „fabrication of results or data and their presentation as experimental data, as data obtained through calculations or numerical computer simulations or as data or results obtained through analytical calculations or deductive reasoning” [point a)]; „falsification of experimental data, of data obtained through calculations or numerical computer simulations or of data or results obtained through analytical calculations or deductive reasoning” [point b)]; „deliberately obstructing, hindering or sabotaging the teaching or research activities of other persons, including by unjustifiably blocking access to university research premises, by damaging, destroying or manipulating experimental apparatus, equipment, documents, computer programs, electronic data, organic or inorganic substances or living matter necessary for other persons to carry out, perform or complete teaching or research activities” [point c)]; „assessment fraud” [point g)]; „plagiarism” [point h)]; „non-compliance with the legal provisions and procedures concerning university ethics and deontology set out in Law no. 199/2023 and in the university ethics and deontology codes, which are part of the university charter, as appropriate” [point i) sentence I].

In accordance with the provisions of art. 169 points b)-d) of Law no. 199/2023 and art. 2 points o)-q) of the Framework regulation on doctoral studies:

- the expression „fabrication of results or data” means „the reporting of fictitious results or data, which are not the real result of a research and development activity”;
- the expression „falsification of results or data” means „the selective reporting or rejection of data or undesirable results, manipulation of representations or illustrations, alteration of experimental or numerical apparatus to obtain the desired data, without reporting the alterations made, in order to distort the scientific truth”;
- the term „plagiarism” means „the presentation as an allegedly personal scientific creation or contribution in a written work, including in electronic form, of texts, ideas, demonstrations, data, theories, results or scientific methods taken from written works, including in electronic form, of other authors, without mentioning this fact and without reference to the original sources”.

To exemplify the types of plagiarism, we mention the provisions of art. 106 para. (1) points a)-d) of the Charter of the Maritime University of Constanța¹², which stipulate that the following can be considered as plagiarism: „the compilation of fragments from several sources/authors, without clear references to the source texts”; „the interweaving of fragments of plagiarised texts with one’s own material”; „the taking of a text without clear references, with the modification of some expressions in the text, and/or the inversion of some paragraphs/sentences/chapters”; „the omission of clear citation marks in the text and of the correct and complete mention of the source work in the bibliography”.

Art. 106 para. (2) of the same Charter states that it does not constitute plagiarism „the use of short phrases or definitions regarded by the community of specialists as forming part of the basic common concepts of the discipline concerned”.

It should be noted that, although in art. 169 point e) of Law no. 199/2023 and in art. 2 point r) of the Framework regulation on doctoral studies, „self-plagiarism” is defined as „republication of substantial parts of one’s own previous publications, including translations, without properly indicating or citing the original”, regrettably, Law no. 199/2023 does not contain any other reference to this term, which is why, taking into account the principle of the legality of establishing misconduct, which requires the strict application of the meaning of the term „plagiarism”, without including self-plagiarism, *de lege lata*, it is inconceivable to hold the doctoral student legally liable for committing the misconduct of self-plagiarism except on the basis of the provisions of art. 168 para. (1) point i) sentence I of Law no. 199/2023, therefore only if it is provided for as misconduct in the university ethics and deontology codes. As examples, can be mentioned in this regard the Ethics and Deontology Code of the University of Bucharest¹³, which, in art. 21 para. (3) point i), provides that self-plagiarism is academic fraud only if it „aims at obtaining benefits”, such as „winning a competition, acquiring a title or a distinction and the like”, and the Academic Ethics and Professional Deontology Code of the University

¹² See <https://cmu-edu.eu/wp-content/uploads/2018/04/Carta-UMC-web.pdf>, accessed on 11.01.2024.

¹³ See <https://unibuc.ro/wp-content/uploads/2021/01/CODUL-DE-ETICA-SI-DEONTOLOGIE-AL-UNIVERSITATII-DIN-BUCURESTI-2020-1.pdf>, accessed on 11.01.2024.

of „Nicolae Titulescu” of Bucharest¹⁴, which, in art. 19 para. (3), provides for self-plagiarism as a misconduct „in so far as by this means the results of the research activity are falsified for the purpose of multiple marking of the same work”.

At the same time, it should be noted that, unlike Law no. 8/1996 on copyright and neighboring rights, republished¹⁵, which, in art. 9 point a), provides that „ideas, theories, concepts, scientific discoveries, processes, methods of operation or mathematical concepts as such and inventions contained in a work, regardless of the manner in which they are taken up, written down, explained or expressed” are not eligible for copyright protection, the provisions of art. 169 point d) of Law no. 199/2023 and art. 2 point q) of the Framework regulation on doctoral studies provide that the taking over, *inter alia*, of ideas and/or theories contained in written works, including in electronic format, by other authors, without mentioning this fact and without reference to the original sources, followed by their presentation in a written work, including in electronic format, as an allegedly personal creation or scientific contribution, constitutes plagiarism, which reveals that plagiarism may exist even if there has been no infringement of copyright, the subject-matter of which is, according to the provisions of art. 7 introductory part of Law no. 8/1996, republished, „original works of intellectual creation in the literary, artistic or scientific field, whatever the mode of creation, mode or form of expression and irrespective of their value and purpose”, the doctrine sometimes adds the condition that they must be capable of being made known to the public, since only in this way can works be disseminated, *inter alia*, by reproduction, exhibition or other means¹⁶.

On the other hand, it is possible that the doctoral student does not respect copyright, but without plagiarising, by using long quotations from a work of another person or persons¹⁷, „for the purpose of analysis, comment or criticism or by way of example”, which is prohibited by the provisions of art. 35 para. (1) point b) of Law no. 8/1996, republished, a taking over by the doctoral student, without indicating the source, of fragments of a work that no longer enjoys copyright protection, according to this normative act, due to its very great age, constitutes plagiarism.

It should also be noted that the similarity report of the text of a scientific work with that of another work, being issued by a special computer program, is only a tool with which to detect the existence of plagiarism, the verdict in this regard will be given after a thorough analysis to be carried out by legally authorised persons, vulnerabilities such as the non-existence of a single database to which any such program has access, databases in which all scientific works ever carried out in a field and published are archived (scanned), the non-recognition as similarities by the program in question of words written with grammatical errors or the generation of a similarity percentage for legislation and jurisprudence¹⁸. In this context, it should be mentioned that, following the control carried out by the Control Body of the Minister of Internal Affairs on the way in which the process of verification of doctoral theses was organised in the period 2011-2018, at the level of the „Alexandru Ioan Cuza” Police Academy of Bucharest, a number of dozens of doctoral theses were found to have exceeded the admitted similarity coefficients, some doctoral theses being verified in distinct periods of time, with different results¹⁹.

Another problem related to the similarity *ratio* is, as has also been pointed out in the doctrine²⁰, the lack of a uniform regulation, through a normative act published in the Official Gazette of Romania, regarding the maximum similarity percentage identified in doctoral theses, so that situations of discrimination may arise, an aspect that has been confirmed by practice, which reveals differences regarding the maximum similarity coefficients allowed. By way of example, we mention that at the „Dunărea de Jos” University of Galați, where the similarity coefficient 1 - which specifies the level of borrowings found in certain sources containing at least 5 words - is accepted in a maximum percentage of 50%, and the coefficient of similarity 2 - which determines the level of borrowings containing at least 25 words - is accepted at a maximum of 5%²¹, at the National University

¹⁴ See <https://www.univnt.ro/index.php/comisia-de-etica/>, accessed on 11.01.2024.

¹⁵ Published in the Official Gazette of Romania, Part I, no. 489/14.06.2018.

¹⁶ See, in this regard, I. Macovei, *Treatise on Intellectual Property Law*, C.H. Beck Publishing House, Bucharest, 2010, p. 433; in the sense that this condition cannot be considered as distinct from the concrete form of expression of the work, which makes it perceptible through the senses, but is a logical consequence of it, see V. Roș, *Intellectual Property Law*, vol. I, *Copyright, related rights and sui-generis rights*, C.H. Beck Publishing House, Bucharest, 2016, p. 203.

¹⁷ A.-M. Oprea, *The liability of the doctoral student for violating the rules of ethics and deontology during doctoral studies*, in *Curierul judiciar* no. 5/2019, p. 290.

¹⁸ E.E. Ștefan, *Academic Ethics and Deontology*, 2nd ed., revised and supplemented, Pro Universitaria Publishing House, Bucharest, 2021, p. 306.

¹⁹ *The Interior Ministry, on plagiarism at The Police Academy: some doctoral theses were checked in separate periods of time, with different results. Veronica Stoica is the new rector of the Academy*, 03.07.2019, <https://www.edupedu.ro/ministerul-de-interne-la-academia-de-politie-nu-exista-politici-coerente-de-verificare-a-plagiatelor-veronica-stoica-a-fost-imputernicita-sa-fie-rectorul-academiei>, accessed on 11.01.2024.

²⁰ A.-R. Tănase, *The unconstitutional and discriminatory management of the proof of plagiarism in Romania*, in *Revista Română de Dreptul Proprietății Intelectuale* no. 1/2017, p. 52.

²¹ *General procedure. Use of the anti-plagiarism system*, elaborated by „Dunărea de Jos” University of Galați,

of Arts „George Enescu” of Iași, the coefficient of similarity 1 must not exceed 30% and the coefficient of similarity 2 must be less than 5%²².

Deviations from the rules of ethics and deontology in the activity of scientific communication, publication, dissemination and popularisation, provided for in art. 168 para. (2) of Law no. 199/2023 and which may be committed by a doctoral student in the scientific research activity carried out by him/her until the public presentation of his/her doctoral thesis consist of „the unauthorised publication or dissemination by authors of unpublished scientific results, hypotheses, theories or methods”.

Concerning the deviations from the rules of professional ethics and deontology regarding respect for human beings and human dignity, which may be committed by a doctoral student in the scientific activity carried out by him until the public presentation of his doctoral thesis, these are provided for in art. 168 para. (4) points a) and b) of the Law no. 199/2023, namely the misconduct that infringes the protection of the rights of the direct beneficiaries of the right to education - defined, in point 10 of the annex to the law, as students, as well as adults in a form of education - and the misconduct that undermines the dignity of these beneficiaries and the prestige of the profession, to which may be added misconduct such as that provided for in art. 168 para. (4) of the same normative act, established by the university ethics and deontology codes.

An example of an offence under point a) of para. (4) of art. 168 of the Law no. 199/2023 can be that of harming the religious freedom of another member of the university community, as it is defined in art. 14 para. (1) and (2) of the same normative act, by discrediting the religious cult to which that person belongs, and an example of misconduct provided for in point b) of the same paragraph can be that which consists of using insulting expressions with regard to another member of the university community.

As regard to offences such as those referred to in art. 168 para. (4) of Law no. 199/2023, established by the university ethics and university deontology codes, an example in this regard is the misconduct provided for in art. 44 point e) of the Academic Ethics and Professional Deontology Code of the University of Medicine and Pharmacy „Grigore T. Popa” of Iași²³, respectively „repeated public defamation” of the university mentioned.

It should be noted that, although Law no. 99/2023 took important steps in regulating the liability of doctoral students in the event of their failure to comply with the rules of ethics and university deontology, these concepts, although conceptually distinct, are placed on the same level, which, in our opinion, is unacceptable.

3. Training the legal liability of the doctoral student for violation of the rules of academic ethics and deontology

Failure by the doctoral student to comply with any of the above-mentioned rules in the course of the scientific research carried out by him/her up to the public presentation of his/her doctoral thesis, in addition to his/her ethical liability, may, according to the provisions of art. 166 para. (2) of Law no. 199/2023, the doctoral student’s civil or administrative liability, as the case may be, provisions which must be understood as not excluding, however, the doctoral student’s criminal liability when the violation of those rules constitutes a crime.

Also in art. 259 para. (1) of the same normative act states: „The authors of undergraduate, dissertation and doctoral works are responsible for ensuring the originality of their content. The supervisors of undergraduate, dissertation and doctoral works shall be responsible for checking the conformity of scientific works with the specific requirements of an original creation.”

The originality of the doctoral thesis, as well as of the other scientific works elaborated by the doctoral student during his/her doctoral research, is an aspect that is related to the quality of the work, revealing the personality of its author, by presenting in a unique form the ideas, theories, concepts or discoveries, even if these have been used previously by other authors in their works, but in their own way of expression, which means that the originality of a scientific work is not to be confused with its novelty, as such a work may be original even if it does not contain elements of novelty compared to existing works dealing with the same subject²⁴.

At the same time, according to the provisions of art. 7 introductory part of Law no. 8/1996, republished, originality is a requirement for the protection of a work of intellectual creation in the scientific field, the author of which is presumed to be, „until proven otherwise, the person under whose name the work was first made known to the public”, according to the provisions of art. 4 para. (1) of the same normative act. In this context, it should be noted that although, according to the provisions of art. 65 para. (6) of the Code of Doctoral Studies,

https://www.ugal.ro/files/site/comisie_etica/15_10_Procedura_gen_Antiplagiat_CEU_rev_2018.pdf, accessed on 11.01.2024.

²² Operational procedure for the similarity analysis of doctoral thesis at IOSUD-UNAGE, elaborated by the National University of Arts „George Enescu” of Iași, https://www.arteiasi.ro/wp-content/uploads/2021/12/Procedura_operationala_-_analiza_similitudine_teze_dr.pdf, accessed on 11.01.2024.

²³ Annex to the University Charter of the same higher education institution, https://www.uaic.ro/wp-content/uploads/2019/06/Codul-de-Etica-UAIC_23.05.2019.pdf, accessed on 13.01.2024.

²⁴ See I. Macovei, *op. cit.*, p. 432, V. Roș, *op. cit.*, p. 208, 210 and 212.

with subsequent amendments and additions, art. 4 of the Methodology for the evaluation of doctoral theses, approved by Order no. 5229/2020 of the Minister of Education and Research²⁵, and art. 21 para. (4) of the Framework regulation on doctoral studies, the doctoral student is the author of the doctoral thesis and assumes responsibility for the accuracy of the data, information, opinions and demonstrations presented in the thesis, his or her supervisor may be considered to be the *de facto* co-author of the thesis to the extent of his or her contribution to its preparation, without this automatically giving rise to the recognition of copyright in his or her favour²⁶.

Also, according to the provisions of point c) of art. 19 of the Methodology for the evaluation of doctoral theses, originality is a criterion for the evaluation of the doctoral thesis, distinct from the criterion of scientific relevance, provided for in point (a) of the same article, which essentially consists of the personal contribution of the author of the thesis to the development of science, through the information, ideas, theories, concepts or demonstrations brought to this end.

3.1. Civil liability of the doctoral student

As stated above, in his or her scientific research activity, the doctoral student may harm other persons by not respecting their copyright - protected by Law no. 8/1996, republished - in the sense that either he takes texts from written works, including in electronic format, of other authors, without mentioning this fact and without making reference to the origin of the source of information, or he complies with these requirements, but the taking is made in a proportion that does not justify the extent of the citation, these conducts violating both the provisions of art. 10 point a) of the abovementioned law, according to which the author of a work „has the right to decide whether, in what manner and when the work is to be made known to the public”, and the provisions of art. 12 of the same normative act, according to which the author of a work „has the exclusive economic right to decide whether, in what manner and when his work will be used, including the right to consent to the use of the work by others”, which is such as to give rise to civil liability on the part of the doctoral student, by way of an action referred to in the specialised literature and in jurisprudence as „in counterfeiting”²⁷, based on the provisions of art. 188 of the aforementioned law²⁸.

Another hypothesis in which the civil liability of the doctoral student may be engaged is that in which, as has been pointed out in the doctrine²⁹, he/she violates a clause of the doctoral studies contract establishing his/her liability in situations not regulated in the active legislation (regarding ethics and university deontology), this clause being stipulated in accordance with the provisions of art. 1169 of Law no. 287/2009 on the Civil Code, republished³⁰, according to which the parties „are free to conclude any contracts and to determine their content, within the limits imposed by law, public order and good morals” - and the conduct in question can be sanctioned exclusively by the university ethics committee.

Regardless of the situation, the doctoral candidate’s civil liability is incurred even for the slightest fault.

3.2. Administrative liability of the doctoral student

Compared to the way in which the liability of the doctoral student for violating the rules of university ethics and deontology is currently regulated, this form of legal liability may be the most common in practice.

As it has also been appreciated in the specialised literature³¹, the failure of the doctoral student to comply with the rules of university ethics and deontology mentioned above may entail a particular type of administrative liability, as it stems from the violation of obligations established primarily by law, even if they are subsequently repeated in the doctoral studies contract³², the incidence of disciplinary liability is excluded in so far as it is a

²⁵ Published in the Official Gazette of Romania, Part I, no. 783/27.08.2020.

²⁶ See I. Macovei, *op. cit.*, p. 425, V. Roş, *op. cit.*, p. 162.

²⁷ V. Roş, *op. cit.*, p. 645.

²⁸ Most of the procedural aspects of this action are contents in art. 188 para. (3)-(14) of Law no. 8/1996, republished.

²⁹ Gh. Bocşan, *The liability of the PhD candidate and of the members of the doctorate public sustenance commission for infringements of deontology rules in the activity of theses elaboration (I)*, <https://www.universuljuridic.ro/raspunderea-doctorandului-a-conducatorului-de-doctorat-si-a-membrilor-comisiei-de-sustinere-publica-a-tezelor-de-doctorat-pentru-incalcarea-regulilor-de-deontologie-in-activitatea-de-intocmire-a-teze/>, accessed on 12.01.2024.

³⁰ Published in the Official Gazette of Romania, Part I, no. 505/15.07.2011.

³¹ Defined in art. 2 point i) of the Framework regulation on doctoral studies.

³² Gh. Bocşan, *op. cit.*; for the opinion, which we do not share, in the sense that in this case the disciplinary liability of the doctoral student is involved, see S. C. Opreşan, *The liability of the doctoral student and of the commission of public presentation of the doctoral thesis for violating the rules of deontology in the activity of preparation of the doctoral thesis, as regulated in the Law on national education no. 1/2011, the GD no. 681/2011 on the Code of Doctoral Studies. The legal nature of the liability, sanctions and its consequences*, in *Dreptul no. 7/2018*, p. 38 and 39.

At the same time, we do not agree with the doctrinal opinion according to which, in the case of a doctoral student, administrative

matter of employment law, since the doctoral research activity is not carried out on the basis of an individual employment contract and any legal employment relationship in which the doctoral student may find himself is with a component of an institution organising doctoral studies and is not concerned with the preparation of the doctoral thesis but with the performance of a teaching activity subsidiary to the doctoral studies.

This idea is reinforced both by the terminology used by the legislator, who, in art. 175-179 of Law no. 199/2023, regulated as such the disciplinary liability of „teaching and research staff, teaching and auxiliary research staff and management staff in higher education” - taking into account the specific nature of the employment relationships of these categories of staff - and by the regulation of the other forms of legal liability of members of the university community.

As regard to the competence to verify whether the conditions for the administrative liability of the doctoral student are met, the provisions of para. 1 of art. 171 of Law no. 199/2023 stipulates that this is the responsibility of the University Ethics Commission, which, according to the provisions of para. (2) of the same article and art. 71 para. (13) sentences I and II of the same normative act, may be referred in writing or online by any person, regarding the commission of an act that may constitute a violation of academic ethics and deontology, including the existence of plagiarism.

According to art. 171 para. (8)-(10) and art. 172 para. (4) sentence I and para. (6) sentence I of Law no. 199/2023, the analysis of complaints about plagiarism is made „within 45 calendar days of receipt of the complaint”, taking into account „the conditions of legality in force at the time of writing the doctoral thesis on which the doctoral degree was based, respectively, without being able to re-evaluate the scientific merits of the doctoral thesis” and „is completed by the adoption of a decision of admission or rejection on the merits of the complaint, stating the reasons in fact and in law”, which is an administrative act and „must explicitly include in its text the facts that led to the sanctioning of the person concerned, the legal basis and the reasons for which the university ethics committee rejected the arguments put forward by the author of the complaint”, the decision in question may be contested, within 30 days of communication, at the National Council for the Accreditation of University Degrees, Diplomas and Certificates, the National Commission for Ethics in University Management or the National Council for Ethics in Scientific Research, Technological Development and Innovation, as appropriate.

In the case of a definitive finding of plagiarism in a doctoral thesis, the provisions of art. 172 para. (8)-(11) of the same law establish, as appropriate:

- the rector, the obligation to formulate, within 30 days from the date of communication of the decision of the National Council for the Accreditation of University Degrees, Diplomas and Certificates, „an action in administrative dispute, in order to cancel the doctoral degree, for the degrees awarded by the higher education institution, if the doctoral degree has entered the civil circuit and has given rise to subjective rights guaranteed by law”, in the event of breach of this obligation, the Ministry of Education is obliged to bring „its own action in administrative dispute for the annulment of the doctoral degree”, and to refer the matter to the National Commission for Ethics in University Management;
- the Ministry of Education is required to bring, within 30 days of the date of communication of the decision of the National Council for the Accreditation of University Degrees, Diplomas and Certificates, „an action in administrative dispute for the annulment of the order of the Minister confirming the doctoral degree, if the order in question has entered the civil circuit and has given rise to subjective rights guaranteed by law”;
- the obligation on the rector to order, within 30 days from the date of communication of the decision of the National Council for the Accreditation of University Degrees, Diplomas and Certificates, „the revocation of the doctoral degree, if it was awarded by the higher education institution, has not entered the civil circuit and has not given rise to subjective rights guaranteed by law”;
- the Minister of Education is required to order, within 30 days of the date of communication of the decision of the National Council for the Accreditation of University Degrees, Diplomas and Certificates, „the revocation of the Minister’s order confirming the doctoral degree, if it has not been awarded by the higher education institution and has not given rise to any subjective rights guaranteed by law”.

The way in which the provisions of art. 171 para. (1)-(8) and (10) and art. 172 para. (8)-(11) of Law no. 199/2023 have been formulated shows that the wording of these provisions took into account both Decision no. 624/2016 of the Constitutional Court of Romania³³, in which it was found that the doctoral degree is an administrative act, and the doctoral diploma, as a document certifying the aforementioned degree, can only be an administrative act, so that the abolition of the aforementioned diploma is achieved by revocation when it has

liability cannot be incurred (Gh. Lucian, *The legal liability of the doctoral student for violating the legal provisions in the process of preparing the doctoral thesis according to the new law on higher education*), <https://sintact.ro/comentarii-monografii-reviste-si-webinari/articole/raspunderea-juridica-a-studentului-doctorand-151029570>, accessed on 24.03.2024 .

³³ Published in the Official Gazette of Romania, Part I, no. 937/22.11.2016.

not entered the civil circuit and has not produced legal effects, respectively by cancellation, when it has entered the civil circuit and has produced legal effects, and CCR dec. no. 364/2022³⁴, which ruled that the provisions of art. 170 para. (1) point b) of Law no. 1/2011 on national education³⁵, as amended and supplemented - according to which, in the event of non-compliance with quality or professional ethics standards, the Ministry of Education, Research, Youth and Sport, on the basis of external evaluation reports, drawn up, where appropriate, by the National Council for the Accreditation of University Degrees, Diplomas and Certificates, the National Council for Scientific Research, the Council for Ethics and University Management or the National Council for Ethics in Scientific Research, Technological Development and Innovation, may, *inter alia*, take the measure of withdrawing the doctoral title - are constitutional in so far as they relate to the withdrawal of a doctoral title which has not entered into the civil circuit and has not produced legal effects.

Concerning the possibility of withdrawing the doctoral title, practice has revealed that, although the working committee of the CNATDCU, after having examined a complaint about the existence of plagiarism in a doctoral thesis³⁶, did not propose this measure, has, however, submitted a proposal to prohibit the publication of the thesis in question as publicly defended, on the grounds that, although plagiarism cannot be established, the thesis in question is below the quality standards of a doctoral thesis, a measure which we consider to be unlawful in relation to the provisions of art. 170 para. (1) of Law no. 1/2011, with subsequent amendments and additions, a regulatory act in force at the time of the analysis in question, which does not provide for the possibility of proposing such a measure, which is, in fact, a real sanction.

It should also be noted that, unlike Law no. 1/2011, with subsequent amendments and additions, Law no. 199/2023 does not provide for the possibility for the holder of a scientific title to request, where appropriate, the Ministry of Education or the institution organising doctoral studies that awarded the doctoral degree to relinquish that title, in line with CCR dec. no. 624/2016.

As regard to the types of sanctions for violating the rules of university ethics and deontology by the doctoral students, the provisions of art. 174 para. (3) of Law no. 199/2023 stipulate that they are: „written warning” [point a)]; „cancellation of the results of the evaluations” [point b)]; „expulsion” [point c)]; „other sanctions”, provided for in the university ethics and deontology code of the higher education institution [point d)].

From the category of sanctions provided for in art. 174 para. (3) point (d) of Law no. 199/2023 is included, *exempli gratia*, the one established in art. 25 para. (1) point c) of the Ethics Code of the University „Alexandru Ioan Cuza” of Iași³⁷, respectively the prohibition to participate in an evaluation form, if access to the evaluation was based on fraud or attempted fraud/refusal to allow access to an evaluation form based on fraudulent results.

3.3. Criminal liability of the doctoral student

As indicated above, there are cases where violating the rules of university ethics and deontology by the doctoral student may take the form of criminal wrongdoing.

Such situations in which the criminal liability of the doctoral candidate may arise, and which have also been reported in the doctrine³⁸, are, for example, the case of fabrication of results or data and their presentation as experimental data, as data obtained through calculations or numerical computer simulations or as data or results obtained through analytical calculations or deductive reasoning or the case of falsification of experimental data, data obtained by means of calculations or numerical simulations on a computer or data or results obtained by means of analytical calculations or deductive reasoning, in which case the doctoral student may be held to have committed, as appropriate, the offence of fraud, the offence of forgery of private documents, the offence of forgery, the offence of computer forgery or the offence of false statements, if the constituent elements are met.

Another hypothesis in which the criminal liability of the doctoral candidate can be engaged refers to the infringement of copyright and is provided for in art. 197 para. (1) of Law no. 8/1996, republished.

Thus, in the case of plagiarism committed by a doctoral student, the latter may become the active subject of the offence in question, the passive subject being the person who is the author of the plagiarised work, and the material element of the objective side consists of two actions, which must be carried out cumulatively, namely the appropriation, in whole or in part, by the active subject of the passive subject’s work - which may be achieved by taking it over - followed by the presentation by the passive subject of the appropriated work as his

³⁴ Published in the Official Gazette of Romania, Part I, no. 831/24.08.2022.

³⁵ Published in the Official Gazette of Romania, Part I, no. 18/10.01.2011.

³⁶ See *The joint report on the doctoral thesis „Combating organised crime through Criminal Law provisions”, presented in 2011 by Mrs. Laura Codruța Kovesi*, document available on the internet at <https://www.edu.ro/sites/default/files/Raport-comun-LCK.pdf>, accessed on 13.01.2024.

³⁷ Document available on the internet at https://www.uaic.ro/wp-content/uploads/2019/06/Codul-de-Etica-UAIC_23.05.2019.pdf, accessed on 13.01.2024.

³⁸ S.C. Opreșan, *op. cit.*, p. 39, Gh. Bocșan, *op. cit.*, A.-M. Oprea, *op. cit.*, p. 294.

own intellectual creation.

The law imposes the essential requirement that the appropriation in question be made without right (not permitted by law). In this context, it will be necessary to ascertain whether, *inter alia*, the provisions of art. 9 point a) of Law no. 8/1996, republished, apply in the case in question. As has also been pointed out in the doctrine³⁹, in the hypothesis that what is taken by the researcher does not constitute elements protected by copyright, the applicability of the criminal law must also be examined in the light of the consequences that the taking in question may produce, in the sense that it may constitute the constituent elements of another offence (for example, the offence of cheating).

The offence in question has no material object, since the material element of the objective aspect does not concern the possible material support on which the work is taken.

The offence is committed when the person who commits it presents the wrongfully appropriated work as his own intellectual creation and the immediate consequence is the commission of the offence.

In the case of this offence, the attempt, although possible, is not punishable as it is not provided for by law.

The form of guilt with which the offence in question can be committed is only intention, direct or indirect.

The law does not provide for a special motive or purpose for the commission of the offence under consideration, but this must be taken into account in the judicial determination of the penalty.

According to the provisions of para. (2) of art. 197 of Law no. 8/1996, republished, in the case of the commission of the offence referred to in para. (1) of the same article, the reconciliation of the parties removes criminal liability.

4. Aspects of the doctoral student's liability for violating the rules of university ethics and deontology in the regulations of the Republic of Moldova

Unlike Romania, where deviations from the rules of academic ethics and deontology are provided for, first of all, in the law and then in the ethics and deontology codes, which are part of the university charter, the provisions of art. 109 para. (2) point (b) of the Education Code of the Republic of Moldova⁴⁰ stipulates that these rules are obligatorily contained in the university charter, without any deviation from these rules being found in the content of the Code.

On the other hand, as in Romania, the provisions of points 160 and 161 of the Regulation on the organisation of doctoral studies, cycle III, approved by GD no. 1007/2014⁴¹, with amendments, as well as the provisions of points 4 and 9 of the Methodology for conferring and confirming scientific titles, approved by GD no. 497/2019⁴², provide for the obligation of the originality of the doctoral thesis, as well as the obligation of the doctoral student, considered to be the author of that thesis, to mention the source for any material taken and to assume the accuracy of the data, information, opinions and demonstrations presented in that thesis.

However, unlike the provisions of art. 259 para. (1) of the Romanian Law no. 199/2023, the provisions of point 162 of the aforementioned regulation stipulate that the supervisor is jointly responsible with the author of the doctoral thesis for compliance with the standards of quality and professional ethics, including ensuring the originality of the doctoral thesis.

Concerning the situation in which non-compliance with standards of quality or professional ethics is established, including in the case of a finding of plagiarism, the provisions of point 182 of the same regulation provides that, „on the basis of a report drawn up on the case by the national authority empowered to confirm scientific titles” - the National Agency for Quality Assurance in Education and Research - and the decision of its Governing Board „to cancel the validation decision, as well as following the evaluation by its own institutional structures, the rector of the institution that registered the doctoral student may take the administrative decision to revoke the awarding of the scientific title of doctor and to cancel the doctoral degree, if it has been awarded, regardless of the date of the finding of the violation committed”.

Also, taking as a source of inspiration the provisions of art. 1 of Annex no. 2 to the Regulation on the organisation and functioning of the CNATDCU, approved by Order no. 3482/2016 of the Minister of National Education and Scientific Research of Romania⁴³, the Methodology for conferring and confirming scientific titles provides, in point 72, that any natural or legal person may refer in writing to the National Agency for Quality

³⁹ L.T. Poenaru, *An investigation of plagiarism: the criminal implications of the phenomenon*, in *Curierul judiciar* no. 9/2017, p. 509.

⁴⁰ Published in the Official Gazette of the Republic of Moldova no. 319-324/24.10.2014, art. 634, https://www.legis.md/cautare/getResults?doc_id=15141&lang=ro#, accessed on 14.01.2024.

⁴¹ Published in the Official Gazette of the Republic of Moldova no. 386-396/26.12.2014, art. 1101, https://www.legis.md/cautare/getResults?doc_id=115655&lang=ro#, accessed on 14.01.2024.

⁴² Published in the Official Gazette of the Republic of Moldova no. 320-325/01.11.2019, art. 728, https://www.legis.md/cautare/getResults?doc_id=118490&lang=ro#, accessed on 14.01.2024.

⁴³ Published in the Official Gazette of Romania, Part I, no. 248/04.04.2016.

Assurance in Education and Research „regarding non-compliance with quality standards, conduct in scientific research or professional ethics, including the existence of plagiarism in a doctoral thesis, regardless of the date of its defense.

The same methodology stipulates, in point 73, that in case of non-compliance with quality or professional ethics standards, the Governing Board of the National Agency for Quality Assurance in Education and Research cancels the decision confirming the scientific title.

Proceeding to the examination, by way of example, of the Charter of the State University of Moldova⁴⁴, it is noted that it provides, in art. 76 and 77, that the rules of ethics of the academic community belonging to this institution of higher education are contained in the Ethics Code of the State University of Moldova, adopted by its Senate, to ensure compliance with the Code mentioned, the Ethics Commission of the Senate being established and functioning, according to the provisions of art. 78.

According to art. 16 of the Academic Ethics and Integrity Code of the State University of Moldova⁴⁵, the doctoral students have, among others, the following obligations:

- to respect „the provisions of the laws under which they carry out their activity, the University Charter, the Internal regulation and the decisions of the management” of the aforementioned university, as well as of the faculties, departments and component departments;
- to respect „order, morality, personal honour and the rights of others”, both inside and outside the university;
- to ensure „the development of a climate of civility, mutual respect, recognition and appreciation of individual dignity, goodwill, tolerance, care, solidarity and attachment to the institution and the values it promotes”;
- „to respect the authority of teaching, research and non-teaching staff and the authority of the governing bodies” of the aforementioned university and its faculties;
- „not to receive illicit means during the examination, in the preparation of individual work” and doctoral theses; „not to commit intellectual fraud”;
- „to use in a civilised way the patrimony” of the mentioned university; „not to damage the material base of the classrooms and seminars, laboratories” and libraries;
- „to abstain from committing any acts that may damage the prestige and image” of the aforementioned university.

Concerning the deviations from the rules of academic ethics and deontology mentioned above that may be committed by doctoral students in the course of their scientific research conducted up to the public presentation of the doctoral thesis, these, according to the provisions of art. 21, art. 22 para. (1) sentence I and art. 24 of the aforementioned Code, may consist, *inter alia*, of:

- fraud in any form in the scientific research activity;
- „the destruction, alteration or falsification of documents and databases” of the university in question and their use for illicit purposes;
- obstructing scientific research or any function of the aforementioned university;
- „using language contrary to the academic spirit”;
- unauthorised use of and culpable damage to the property of the university;
- „public denigration of the staff or institution” of higher education;
- plagiarism in any form;
- the use of unlawful means during assessment by examinations, colloquia or reports, thus being considered „any process of preparing answers required by examiners outside the knowledge possessed” by doctoral students.

As regard to plagiarism, according to the provisions of point 1.4 of the Institutional regulation on the verification of similarities in doctoral and habilitated doctoral theses, adopted at the level of the State University of Moldova⁴⁶, plagiarism may be committed by doctoral students in the following situations: „reproduction (directly or through translation) of ideas, data or texts belonging to another person, without indicating or by indicating incompletely or incorrectly the source” [point a)]; „taking ideas, data or texts from various sources and presenting them as one’s own contribution” [point b)]; „omitting to place in quotation marks, clearly, words, sentences, paragraphs taken” *ad litteram* or quasi-literally from various sources [point c)]; „paraphrasing the content of another person’s work without reference to the source” [point d)]; „reproducing audio, video,

⁴⁴ https://usm.md/wp-content/uploads/Carta_cu_acturi_aditionale_27_05_2023.pdf, accessed on 14.01.2024.

⁴⁵ <https://usm.md/wp-content/uploads/Codul-de-Etica-si-Integritate-Academica-al-USM.pdf>, accessed on 14.01.2024.

⁴⁶ <https://usm.md/wp-content/uploads/Regulament-institutional-privind-verificarea-similitudinilor-in-tezele-de-doctor-si-doctor-habilitat.pdf>, accessed on 14.01.2024.

software, etc. material without acknowledging the source and, moreover, assuming it to be one's own contribution" [point e)]; „reproducing the work of colleagues and presenting it as one's own" [point f)]; „using work obtained from the internet or written by another person (for a fee or free of charge)" [point g)]; „quoting an extract from the original of a scientific work of more than 400 words" [point h)]; „quoting several fragments, up to 300 words each, from the original of a scientific work, the total volume being greater than an author's copy" [point i)]; reproducing *ad litteram* „one's own bachelor's or master's thesis in the content of the doctoral thesis without the required references" [point j)]; „using unlicensed software in the preparation of the doctoral thesis/doctoral thesis" [point k)].

According to the provisions of point 1.5 of the above-mentioned regulation, as in Romania⁴⁷, it does not constitute plagiarism to use phrases or short definitions considered to belong to the basic notions of the specialty in question or to use notions of general culture.

At the same time, according to the provisions of point 2.6 of the aforementioned regulation, the similarity coefficient 1 - defined in point 2.3.1 of the said regulation as the percentage of the text with all similar sentences found by the system in other documents - must not exceed 20% of the volume of the doctoral thesis, and the similarity coefficient 2 - defined in point 2.3.2 of the same regulation as the percentage of the text with similar fragments exceeding 50 words - must not exceed 5% of the volume of the doctoral thesis. Here too, as in Romania, there are differences from one university to another. Thus, by way of example, we mention that, according to the provisions of art. 12 point a) of the Regulation on the prevention of academic plagiarism in the Academy of Economic Studies of the Republic of Moldova⁴⁸, the coefficient of similarity 1 (the percentage of words identified in fragments of 5 words, without the legislative database) must not exceed 30% of the volume of the doctoral thesis, and the coefficient of similarity 2 (the percentage of words identified in fragments of 25 words, without the legislative database) must not exceed 5% of the volume of the doctoral thesis.

In accordance with the provisions of art. 26 of the Academic Ethics and Integrity Code of the State University of Moldova, the violation of its provisions should entail, in the case of doctoral students, the sanctions provided for in the internal regulations of the mentioned university, the competence and procedure for the application of sanctions being those established in the said regulations.

In the case of misconduct that meets the conditions for another form of liability, the provisions of art. 27 of the aforementioned Code require the Senate Bureau to refer the matter to the competent state bodies.

According to the provisions of art. 31 points b) and c) of the same Code, the main duties of the Academic Ethics and Integrity Commission are, *inter alia*, the self-reporting and receipt of complaints in relation to violations of the rules of the Code, as well as the analysis and resolution of complaints relating to disciplinary offences.

Analysing the Internal regulation of the State University of Moldova⁴⁹, it is noted that they establish the work relations in all structural subdivisions of the aforementioned university, the internal order, the principles of subordination and the principles of activity, applying in all sectors of activity of the respective university, being mandatory for all employees, as provided for in the provisions of point 5, but, given that the aforementioned regulation concerns exclusively the employment relationships of the employees of the aforementioned university - an extension of its applicability to persons who are not employees of the aforementioned university being manifestly unlawful - although its ethics and academic integrity code - which is also applicable to doctoral students - refers to the aforementioned regulation as regards the applicable sanctions, the competence to apply them and the procedure to be followed, and in the Republic of Moldova, *de lege lata*, there is no legislation at State level laying down the penalties applicable to doctoral students in the event of any violation by them of the rules of academic ethics and deontology, and the procedure for applying those penalties⁵⁰, the possibility of penalising doctoral students at the university in question in such cases without applying the rules laid down in respect of employment relationships appears not to be covered by any legislation, with the exception of the Institutional regulation on the organisation of doctoral studies, cycle III, adopted at the level of the State University of Moldova⁵¹, which provides only for the sanction of expulsion, the cases in which it may be applied and the procedure to be followed, which is inadmissible.

The situation presented above is all the more serious since the consultation on the internet of documents

⁴⁷ See, for example, the provisions of art. 106 para. (2) of the Charter of the Maritime University of Constanța, *supra*.

⁴⁸ https://ase.md/files/legal/interne/3.3_reg_plagiat_r03.pdf, accessed on 14.01.2024.

⁴⁹ https://usm.md/wp-content/uploads/REGULAMENT-intern_USM_30.06.2023.pdf, accessed on 14.01.2024.

⁵⁰ <https://usm.md/wp-content/uploads/Regulamentul-institucional-privind-organizarea-studiilor-superioare-de-doctorat-ciclu-III.pdf>, accessed on 14.01.2024.

⁵¹ According to art. 137 para. (3) sentence I of the Education Code of the Republic of Moldova, students who violate the provisions of the normative acts in force and/or the internal acts of the educational institutions are liable to sanctions, depending on the seriousness of the act, according to the internal acts of the educational institutions, up to expulsion.

such as those mentioned above, adopted by other universities, shows that this is not unique, being encountered, for example, at the Academy of Music, Theatre and Fine Arts of Chişinău⁵², thus requiring urgent legislative intervention by the state to eliminate such practices, which, even if they are not found in all higher education institutions in the Republic of Moldova⁵³, are generating inequalities, given that the issue of the liability of doctoral students for violating the rules of academic ethics and deontology is addressed differently by universities, and it is not natural that this very important issue for the academic environment should be left exclusively to the discretion of higher education institutions.

5. Conclusions

Although only a few months have passed since the entry into force of Law no. 199/2023 and, during this period, with the exception of the Framework regulation on doctoral studies, no other regulations have entered into force subsequent to that law, relevant to the subject analysed in the present study and allowing a detailed examination of some aspects, some very important conclusions can be drawn from the findings made in the study.

Firstly, unlike Law no. 1/2011, as subsequently amended and supplemented, which did not even provide for a classification of the rules of university ethics and deontology, and the deviations from them, listed in the same normative act, were 3 in number, Law no. 199/2023, even though it does not distinguish between the notions of ethics and deontology, placing them on the same level, as mentioned above, even though they are conceptually different and urgent legislative intervention is needed to distinguish between them, including in terms of the offences corresponding to each category and the liability regime, includes a broader regulation, at least in terms of offences, diversifying them, based on Law no. 206/2004 on good conduct in scientific research, technological development and innovation⁵⁴ is absolutely necessary - as is the new sanction that can be applied to students, including doctoral students, consisting of the cancellation of the results of evaluations - with the mention that the omission of self-plagiarism also requires urgent legislative intervention, by adding this offence.

Secondly, compared to Law no. 1/2011, as amended and supplemented, which in art. 143 para. (4), established the principle of joint and several liability of the doctoral supervisor and the doctoral student for ensuring the originality of the doctoral thesis, Law no. 199/2023 makes a significant sharing of the liability of the doctoral student and his supervisor with regard to the originality of the content of the doctoral thesis, the former can be sanctioned for failure to fulfil an obligation of result (ensuring the originality of the thesis) and the latter for failure to fulfil an obligation of diligence (verifying the conformity of the scientific work with the specific requirements of an original creation).

Thirdly, in opposition to Law no. 1/2011, with subsequent amendments and additions, Law no. 199/2023 has regulated in detail, according to the various situations that may arise, the consequences of a finding of plagiarism in a doctoral thesis and the relevant procedures and has also eliminated the possibility for the holder of a scientific title to request, where appropriate, the Ministry of Education or the institution organising doctoral studies that awarded the doctoral title to renounce that title, the normative solutions in question being in line with the jurisprudence of the Constitutional Court of Romania on the matter.

Concerning the Republic of Moldova, following the analysis carried out in this study, it can be stated that the regulation of the issue of university ethics and deontology at the state level has major shortcomings, given that the most important normative act of the state in this area, in addition to the fact that it does not contain specific sanctions applicable to doctoral students in case of violation by them of the rules of academic ethics and deontology, obliges universities to regulate such misconduct through the university charter, this situation leads, depending on the university, both to different rules on the abuses referred to above, but above all to differences in the legal regime of liability in the situation in question, in the context in which some universities apply the provisions applicable to employment relations, while others follow the path of administrative liability, aspects which demonstrate the existence of major inequalities in terms of legal treatment in similar cases. This situation

⁵² See Charter of the Academy of Music, Theatre and Fine Arts of Chişinău, available at https://amtap.md/wp-content/uploads/2017/12/1_-Carta-Universitar%C4%83-AMTAP-2015.pdf, accessed on 14.01.2024, The Ethics and Academic Deontology Code of the Academy of Music, Theatre and Fine Arts of Chişinău, document available at <https://amtap.md/assets/pdf/CODUL%20Etica%20si%20Deontol%202022.pdf>, accessed on 14.01.2024, The Regulation of internal order of the Academy of Music, Theatre and Fine Arts of Chişinău, document available at <https://amtap.md/assets/pdf/regulament-ordine-interna-AMTAP%20red.pdf>, accessed on 14.01.2024, and the Institutional regulation of organisation and functioning of doctoral study programmes of the Academy of Music, Theatre and Fine Arts of Chişinău, document available at https://amtap.md/wp-content/uploads/2018/01/regulament-doctorat-red_-04_06.pdf, accessed on 14.01.2024.

⁵³ An example to the contrary is provided by the Charter of the Public Institution „Bogdan Petriceicu Haşdeu” State University of Cahul, which provides both rules of academic ethics and professional deontology, as well as deviations from them, and specific sanctions for students. This document is available at https://www.usch.md/wp-content/uploads/2023/02/Carta-USC_D.S..pdf, accessed on 14.01.2024.

⁵⁴ Published in the Official Gazette of Romania, Part I, no. 505/04.06.2004.

also calls for urgent legislative intervention to regulate the rules of academic ethics and deontology, the deviations from them and the possible sanctions they may attract, primarily at state level and only subsidiarily at university level, following the model of Law no. 199/2023 in Romania, which is the only way to eliminate the discrepancies mentioned above.

Another issue that requires urgent legislative intervention is the procedure and method for invalidating the title of PhD, as the current regulations are deficient in relation to the corresponding rules in Law no. 199/2023 in Romania, which should be incorporated into the legislation of the Republic of Moldova.

Beyond these observations, it can be observed that in the Republic of Moldova there is a concern to align the regulations in this area with those of Romania, as demonstrated by the number of relevant rules taken from Romanian legislation.

However, at the end of these considerations, it should be noted that the argument for the doctoral student compliance with the rules of academic ethics and deontology should be, first and foremost, as has been shown in the doctrine⁵⁵, honesty, „respect for the research activity, for the work of others and for himself”, conscious and voluntary respect, which „comes from education and conviction”, the student in question must demonstrate scientific integrity and be aware, among other things, that the accusation of plagiarism and the punishment for it, whatever it may be, follow the plagiarist „not only in life but also after death”, „because the liability for plagiarism is never prescribed and because the moral punishment of public reproach that accompanies the proven plagiarist does not and cannot know rehabilitation”.

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