MORAL RIGHTS IN THE CASE OF DOCTORAL THESES. LIMITATIONS OF MORAL RIGHTS

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Abstract

This study attempts an analysis of the doctoral thesis from the perspective of copyright, specifically examining the prerogatives and limitations of copyright when a doctoral thesis is created.

In this regard, the doctoral thesis is defined, and it is specified whether it benefits from moral copyright and what the concept and legal characteristics of moral copyright are.

The legal framework is provided, and the most relevant doctrinal opinions are analysed, along with several examples from case law.

Emphasis is placed on the content of moral copyright in the case of doctoral theses and their limitations.

Keywords: *doctoral thesis, copyright, limitations, prerogatives, scientific work***.**

1. Introduction

Within Romanian society numerous cases of plagiarised doctoral theses have been uncovered in the last 10 years (at least), usually among individuals holding important positions within the state apparatus. Most likely, the number of plagiarised doctoral theses is much higher than those discovered, as only a very small number of theses have been subjected to verification. It is well known that in the post-revolutionary period in Romania, the number of individuals holding a doctoral degree in various fields skyrocketed, not because there was a strong inclination towards scientific study within society members, but rather because possessing a doctoral title, under certain circumstances, provided a material advantage.

Therefore, the purpose of this work is not so much to bring about a significant novelty in the field, but rather to serve as a source of clarification for individuals interested in the scientific value of a doctoral thesis and what concrete protection is afforded to the author within the framework of the doctoral thesis.

Each right is treated individually within the paper, most notably the right to disclose the work, the right to the paternity of the work, the right to the name, the right to the integrity of the work, and the right to retract the work.

2. The Notion of Copyright. The Legal Definition of a Doctoral Thesis

According to art. 1 para. (1) of Law no. 8/1996 on Copyright and Related Rights, republished[1], the copyright over a literary, artistic, or scientific work, as well as over other works of intellectual creation, is recognized and guaranteed under the conditions of this law; copyright is linked to the person of the author[2] and entails attributes of both moral and economic nature. Within the category of works previously mentioned, more precisely in that of scientific works, the doctoral thesis is included, representing, in accordance with art. 4 letter e) of GD no. 681/2011[3] approving the Code of Doctoral Studies, the original scientific work elaborated by a doctoral student as part of doctoral studies, a legal requirement for obtaining the title of doctor.

Scientific works, therefore, including doctoral theses, aim to convey information in a specific field, addressing not emotions, like literary works, but intelligence; these have sparked a series of debates regarding the object of protection - scientific originality or, conversely, precise and accurate expression[4].

According to art. 9 letter a) of Law no. 8/1996, ideas, theories, concepts, scientific discoveries, procedures, methods of operation, or mathematical concepts as such, and inventions contained in a work, regardless of the manner of appropriation, writing, explanation, or expression, cannot benefit from legal copyright protection.

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[2] According to art. 3 para. (1) of the law, the author is the natural person or natural persons who created the work.

In accordance with art. 65 para. (6) of GD no. 68/2011, the doctoral student is the author of the doctoral thesis and assumes the accuracy of the data and information presented in the thesis, as well as the opinions and demonstrations expressed in the thesis.

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

[4] I. Macovei, *Treaty on Intellectual Property Law*, C.H. Beck Publishing House, Bucharest, 2010, p. 436.

We join the opinion expressed in the legal literature[5], according to which, since art. 9 letter a) of Law no. 8/1996 excludes from the scope of copyright protection ideas, theories, and concepts, as well as similar ones, what constitutes the object of this protection in the case of scientific works, therefore also in the case of a doctoral thesis, is the form in which the author, respectively the doctoral student, has presented the result of the research activity undertaken.

3. Enumeration of Moral Rights of the Author

The moral rights of the author of a work constitute strictly personal rights that reflect the legal expression of the relationship between the author and his work and are enumerated in art. 10 of Law no. 8/1996.

In accordance with the aforementioned article, the author of a work has the following moral rights:

- the right to decide whether, how, and when the work will be made known to the public (the right of disclosure of the work);
- the right to claim recognition as the author of the work (the right of paternity);
- the right to decide under what name the work will be made known to the public (the right of attribution);
- the right to demand respect for the integrity of the work and to object to any modification or any distortion of the work, if it prejudices his honor or reputation (the right of integrity of the work);
- the right to withdraw the work, compensating, if necessary, the holders of the rights of use, prejudiced by the exercise of withdrawal (the right of withdrawal of the work). The rationale for moral rights of the author is represented by the *desideratum* of protecting the author's personality.

4. The Notion and Legal Characteristics of Moral Rights of the Author

Moral rights of the author represent those personal prerogatives of the author of the work, which give him the ability to defend both his work and his reputation.

According to art. 14 letter a) of GO no. 80/2013[6] on court stamp duties, actions for the recognition of copyright (without distinction as to whether the copyright is moral or economic - ed.) [...], for the determination of its infringement and the compensation for damages [...], as well as for the taking of any measures to prevent the occurrence of imminent damages, to ensure their repair or to restore the infringed right are stamped with the sum of 100 lei.

Moral rights of the author, non-economic subjective rights, whose content cannot be expressed in monetary terms, present the following legal characteristics, which are met also in the hypothesis of moral rights over doctoral theses:

- strict personal character;

The personal character of copyright is emphasised in art. 1 para. (1) of the law, which provides that copyright is closely linked to the person of the author.

These rights can only be exercised by the author during his lifetime.

In the event of the author's death, certain moral rights of the author (the right of disclosure of the work, the right of paternity of the work, and the right of integrity of the work) may be exercised by heirs or, as the case may be, by the collective management organisation that managed the author's rights or by the organisation with the largest number of members in that specific field of creation.

- imperceptible character;

Moral rights cannot be enforced by the author's creditors in any of the forms of enforcement provided by law.

These moral rights cannot be subject to enforcement and, moreover, the author's creditors would not justify any interest in pursuing non-economic rights[7].

Instead, the author's creditors are entitled and, at the same time, justify an interest in pursuing the author's income resulting from the use of the work.

Thus, according to art. 629 para. (1) CPC, the income and property of the debtor can be subject to enforcement if, according to the law, they are seizable and only to the extent necessary to realise the rights of the creditors.

In the case of works that have not been made known to the public, the author's creditors cannot compel him to exercise his moral right to disclose the work in order to exploit it for the realisation of their claims, and

[5] V. Roș, D. Bogdan, O. Spineanu-Matei, *Copyright and Related Rights*, All Beck Publishing House, Bucharest, 2005, p. 122.
[6] Published in the Official Gazette of Romania, Part I, no. 392/29.06.2013.
[7] G. Olteanu, *Intellectual Property Law*, 2nd ed., C. H. Beck Publishing House, Bucharest, 2008, p. 67.

even more so, the author's creditors cannot substitute him in exercising the moral right to disclose the work[8].

- inalienable character;

Art. 11 of Law no. 8/1996 provides, in para. (1), that moral rights cannot be waived, and they cannot be alienated. Since the legal text does not distinguish, the act of renunciation of the right cannot be exercised either before or after the creation of the work.

In the same context, it is also necessary to mention art. 40 para. (1) of the same legislative act, according to which the author or the copyright holder has the right to assign to third parties only his economic rights, therefore excluding the moral rights of the author.

In the event that, within a legal act, the author of the work renounces or undertakes to renounce his moral rights, the respective contractual clause would be null and void.

Moral rights of the author are not lost even in the event of abandonment of the work[9]; thus, art. 11 para. (1) of Law no. 8/1996 constitutes an exception to the cases of extinction of property rights under common law; according to art. 562 para. (1) CC, the owner of a movable asset may abandon it or, in the case of immovable assets, may renounce, by authentic declaration, to the ownership right over it, registered in the land register. Therefore, unlike the legal regime of common law property, in the case of abandoning the work or renouncing it, no other person will be able to assume the quality of author of the work.

Alin. (2) of art. 11 of Law no. 8/1996 states that, after the death of the author, the exercise of the rights provided for in letters a), b), and d) of art. 10 (the right to decide whether, how, and when the work will be made public; the right to claim authorship of the work; the right to demand respect for the integrity of the work and to oppose any modifications or alterations that may prejudice the author's honor or reputation) shall be transmitted to the heirs, under the conditions of civil law, without time limit.

It is also provided in the same paragraph that in the absence of heirs, the exercise of the enumerated rights shall devolve to the collective management organisation that administered the author's rights or, as the case may be, to the organisation with the largest number of members in the respective field of creation.

This legal text represents an exception to the rule established by art. 953 CC, according to which inheritance constitutes the transmission of the patrimony of a deceased natural person to one or more living persons. With reference to the notion of patrimony, art. 31 para. (1) CC provides that any person (natural or legal) is the holder of a patrimony that includes all rights and obligations evaluable in money and belonging to that person. Therefore, with reference to rights, according to common law, only patrimonial rights are transmitted by inheritance, and not non-patrimonial rights, among which moral rights of the author would be included; however, art. 11 para. (2) of Law no. 8/1996 derogates from common law and allows certain moral rights of the author to be transmitted by succession.

- imprescriptible character;

Regarding extinctive prescription, according to art. 2502 para. (2) point 1 CC, the action concerning the defense of a non-patrimonial right is imprescriptible except in cases where the law provides otherwise. Law no. 8/1996 on copyright and related rights does not contain special provisions regarding the extinctive prescription of the right to action for the defense of moral rights of the author, so the action for the defense of moral rights of the author is extinctive imprescriptible.

The exception of extinctive prescription of the material right to action, eventually invoked with regard to the right to action in protecting the moral rights of the author, is unfounded and will be imposed to be rejected as such by the court.

Furthermore, moral rights of the author do not extinguish through non-use and cannot be acquired by third parties through acquisitive prescription (usucapion).

- perpetual character;

This character of moral rights of the author derives from the premise that the work survives its author, being further marked by the personality of the one who created it, and the personality of the latter must be defended even after his death[10].

The perpetual character of moral rights of the author is not expressly regulated by law; however, for certain moral rights of the author, Law no. 8/1996 provided that their exercise could be transmitted by inheritance (the right to disclose the work, the right to paternity of the work, and the right to respect the integrity of the work).

- absolute character.

The holder of the moral right of the author can exercise it without needing the concurrence of another person; only the holder of the right is determined as an active subject within the legal relationship, the passive

[8] *Ibidem*.
[9] *Ibidem*.
[10] *Idem*, p. 320.

subject being undetermined; this right corresponds to the general and negative obligation not to be violated[11].

5. Content of moral rights of the author in the case of doctoral theses and their limitations

5.1. The right to disclose the work[12] [art. 10 letter a) of Law no. 8/1996]

The right to decide how, if, or when the work will be brought to the public's attention is known in legal doctrine as the right to first publication or disclosure[13]. This right is discretionary, absolute, and indissolubly linked to the person of the author of the work[14].

According to art. 1 para. (2) of the law, the work of intellectual creation is recognized and protected, regardless of being brought to the public's attention, simply by its realisation, even in an unfinished form. However, this legal text does not imply the conclusion that patrimonial rights of the author could arise before the disclosure of the work; these are some of the consequences of exercising the right to disclosure.

The holder of the right to disclose the work has the following prerogatives:

- to decide whether the work will be brought to the public's attention or not;
- to decide the concrete way in which the work will be brought to the public's attention;
- to decide the moment when the work will be brought to the public's attention[15].

It is worth mentioning that disclosure is not synonymous with publication; the latter is only one of the forms of manifestation of disclosure[16].

Also, the right to disclose does not imply the correlative obligation of third parties to publish the work, as it is at their discretion whether, once expressed by the author the right to disclosure, they will proceed concretely to publish the work or not.

The author has a property right over the work and, as such, also the attribute of disposition; therefore, in exercising his right not to disclose the work, he can destroy or abandon it, without allowing third parties to recover, reconstitute, and publish it[17].

In legal doctrine[18], the following problem has arisen: in the hypothesis in which the author destroys his work, what is the specific exercise of the right of author, the moral or the patrimonial one? The solution reached in resolving the problem is that the author, by destroying the work, has exercised his moral right of disclosure, in the sense that he has decided that his work will not be brought to the public's attention (in the hypothesis in which the work has not been disclosed before the moment of destruction) or, as the case may be, the moral right to retract (in the hypothesis in which the work has been disclosed before the moment of destruction); the destruction of the work constitutes a prerogative of the moral rights of the author, even if the patrimonial rights of the author will be affected as a result of this fact.

In accordance with art. 4 para. (1) of the same law, the author will be considered, until proven otherwise (thus relatively presumed), the person under whose name a creation was brought to the public's attention for the first time.

The author of the work can reconsider the decision to disclose it provided the provisions of any already perfected publishing contract are respected.

In the case of a jointly created work, the right to bring it to the public's attention is nuanced depending on whether the work is divisible or indivisible; thus, in the case of divisible work, each co-author can separately exercise the right to bring his contribution to the public's attention; on the other hand, in the case of an indivisible work, co-authors can bring the work to the public's attention only to the extent that each of them expresses their agreement in this regard; if the refusal of one of the co-authors to disclose the common work takes the form of an abuse of right, the court is able to compel him, under the law, to compensate the damage caused to the other co-authors[19].

The solutions mentioned earlier are based on the provisions of art. 5 para. (2), (3), and (4) of Law no. 8/1996; thus, according to these legal provisions, the copyright over the joint work belongs to its co-authors,

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[11] For further developments, see G. Boroi, *Civil Law. General Part. Persons*, 2nd ed., All Beck Publishing House, Bucharest, 2022, p. 58.

[12] The word „*divulgare*" was formed from the Latin language, using the prefix „*dis*", which means dispersion, and the word „*vulgus*", which means people - V. Roș, *op. cit.*, p. 287.

[13] I. Macovei, *op. cit.*, p. 446.

[14] *Ibidem*.

[15] V. Roș, D. Bogdan, O. Spineanu-Matei, *op. cit.*, p. 199.

[16] V. Roș, *op. cit.*, p. 287.

[17] *Idem*, p. 289.

[18] *Idem*, p. 315.

[19] I. Macovei, *op. cit.*, p. 447. See also, in the same vein, L. Dănilă, *Copyright Law and Industrial Property Law*, C.H. Beck Publishing House, Bucharest, 2008, p. 79.

among whom one can be the main author; in the absence of a contrary agreement, co-authors cannot use the work except by mutual agreement; the refusal of consent from any of the co-authors must be well justified; if the contribution of each co-author is distinct, it can be used separately, provided that it does not prejudice the use of the joint work or the rights of the other co-authors.

After the author's death, the exercise of the right to disclose the work is transmitted to the heirs, under the conditions of civil law, without time limit, according to art. 11 para. (2) of Law no. 8/1996.

Posthumous works are those published after the author's death.

If, during his lifetime, the author decided, in exercising the right to disclosure, a right that includes a negative component, namely to oppose the publication of his work, we consider, along with other authors[20], that the author's heirs cannot reverse the right of disclosure already exercised by the author in the sense mentioned; by succession, the author's heirs no longer inherit the right to bring the work to the attention of the public.

Regarding doctoral theses, art. 66 para. (1) of GD no. 681/2011 provides that these, together with their annexes, are public documents and are drafted in digital format; the doctoral thesis and its annexes are published on a website managed by the Ministry of Education, Research, Youth, and Sports, in accordance with the legislation in force regarding copyright. According to para. (2) of the same article, the protection of intellectual property rights over the doctoral thesis is ensured in accordance with the provisions of the law.

Also, according to art. 168 para. (10) of National Education Law no. 1/2011[21], after obtaining the doctoral title, within a maximum period of 180 days, the Higher Education Institution has the obligation to transmit to the National Library of Romania a printed copy of the doctoral thesis and its annexes, in accordance with Law no. 111/1995 regarding the Legal Deposit of Documents, republished, a copy destined for the intangible Fund, as well as a digital copy of these, in electronic format, intended for consultation upon request, at the National Library of Romania, by any interested person, under the conditions of compliance with the legal regulations in force.

The civil offense consisting of the violation of the right to disclosure, namely making a work known to the public without the consent of its author, no longer constitutes a criminal offense[22], but is sanctioned exclusively according to civil law.

5.2. The right to the paternity of the work [art. 10 letter b) of Law no. 8/1996]

The right to claim recognition as the author of the work (the right to authorship) implies the prerogative of the creator of a work to be identified as its author; this right is violated when a person presents the work to the public as belonging to another author than its creator.

This right belongs only to natural persons, not to legal entities[23].

The right to paternity is manifested, as a rule, by the author's request for his name to be associated with the respective work. As we have shown, art. 4 para. (1) of Law no. 8/1996 establishes a relative presumption to the effect that the person under whose name the work was first made known to the public is considered the author until proven otherwise.

Legal doctrine has judiciously argued that the right to the paternity of the work involves two aspects: a first positive aspect, represented by the author's right to claim his authorship; a second negative aspect, represented by the author's right to oppose any infringement of his authorship, any challenge to it by third parties[24].

After the author's death, the exercise of the right to the paternity of the work is transmitted to the heirs, under the conditions of civil law, without time limit, according to art. 11 para. (2) of Law no. 8/1996.

Plagiarism[25] constitutes the disregard of the right to the paternity of the work.

It is the duty of the doctoral candidate not to plagiarise, and likewise, it is incumbent upon third parties not to plagiarise the doctoral thesis of the doctoral candidate. Therefore, in the event that the author of a doctoral thesis uses excerpts or ideas from the work of another author, the former will have the obligation to cite the latter, providing complete data for the identification of both the author and the work. Likewise, the person who,

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[20] V. Roș, *op. cit.*, p. 292.

[21] Published in the Official Gazette of Romania, Part I, no. 18/10.01.2011.

[22] Prior to the amendment of Law no. 8/1996 by Law no. 285/2004 amending and supplementing Law no. 8/1996 on copyright and related rights, published in the Official Gazette of Romania no. 587/30.06.2004, the act in question constituted an offense according to art. 140 lit. a).

[23] I. Macovei, *op. cit.*, p. 449.

[24] V. Roș, D. Bogdan, O. Spineanu-Matei, *op. cit.*, p. 216.

[25] Plagiarism constitutes the fraudulent imitation of a work. - R. Pârvu, C.-R. Romițan, *Copyright Law and Related Rights*, All Beck Publishing House, Bucharest, 2005, p. 80. The word „plagiarism", originally, meant the act of child abduction; for the ancient world, committing plagiarism was equivalent to stealing a child. - V. Roș, *op. cit.*, p. 298.

in creating a work, is inspired by a doctoral thesis, has the obligation to cite the author of the doctoral thesis.

According to art. 197 para. (1) and (2) of Law no. 8/1996, it is an offense for a person to appropriate, without right, in whole or in part, the work of another author and to present it as his own intellectual creation; reconciliation between the parties eliminates criminal liability.

5.3. The right to the name [art. 10 letter c) of Law no. 8/1996]

In the content of the right to decide under what name the work will be made known to the public, the following are included: the right to decide the name or, as the case may be, the pseudonym or the preservation of anonymity (without indicating a name) [26] and the right to demand their indication.

It should be emphasised that the author of the work cannot decide to have his work made known to the public under any name he desires, his right being limited exclusively to indicating his own name (entirely, with just one first name, with the addition of the initial of one of the parents, etc.) or a pseudonym[27].

Likewise, in accordance with other authors[28], we consider that the right to the name is different from the right to the paternity of the work; thus, in the event that a work is published under a pseudonym or anonymously, the author can reveal his identity at any time, subsequent to the moment of publication.

According to art. 4 para. (2) of Law no. 8/1996, when the work has been made known to the public either anonymously or using a pseudonym that does not allow the identification of the author's person, the copyright is exercised by the natural or legal person who makes the work public with the consent of the author, as long as the author does not reveal his identity.

After the author's death, the exercise of the right to the name is not transmitted to the heirs, letter c) being excluded from the enumeration of art. 11 para. (2) of Law no. 8/1996. Therefore, the author's heirs cannot reverse his decision to reveal his identity or, on the contrary, to publish his work under a pseudonym or anonymously once the author, prior to his death, has exercised his right to the name by indicating his own name.

Regarding the pseudonym, according to art. 4 para. (2) of the aforementioned law, it must not allow the identification of the author's person; otherwise, it is considered that the work has been published under their name[29].

Regarding doctoral theses, the name of the doctoral candidate will appear on each copy thereof. We reiterate, in this context, art. 66 para. (1) of GD no. 681/2011, which provides that the doctoral thesis constitutes a public document, which is published on a website administered by the Ministry of Education, Research, Youth and Sports, in compliance with the legislation in force regarding copyright.

Additionally, according to art. 168 para. (10) of National Education Law no. 1/2011, after obtaining the doctoral title, the supervisor of the doctoral work has the obligation to transmit to the National Library of Romania a printed copy of the doctoral thesis, as well as a digital copy thereof, in electronic format, intended for consultation upon request, at the headquarters of the National Library of Romania, by any interested person.

However, upon the publication of the doctoral thesis by a publishing house, as a result of concluding a publishing contract, the doctoral candidate has the right to request that the thesis be published either under their name, under a pseudonym, or anonymously.

Violation of the right to name, specifically bringing a work to the attention of the public under a name other than that decided by the author, falls under the offense of plagiarism[30].

5.4. The Right to Respect for the Integrity of the Work [art. 10 letter d) of Law no. 8/1996]

This right confers upon the author of the work the prerogative to demand respect for the integrity of the work and to oppose any modifications or any infringements on the work if they prejudice his or her honor or reputation.

According to art. 37 of Law no. 8/1996, the transformation of a work is not permitted without the author's

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[26] According to art. 4 para. (2) of the law, when the work has been made public anonymously or under a pseudonym that does not allow the identification of the author, the copyright is exercised by the natural or legal person who makes it public with the consent of the author, as long as the author does not disclose their identity.

[27] V. Roș, D. Bogdan, O. Spineanu-Matei, *op. cit.*, p. 217.

[28] V. Roș, *op. cit.*, p. 301.

[29] V. Roș, D. Bogdan, O. Spineanu-Matei, *op. cit.*, p. 219. The authors have pointed out that, in Romanian literature, a significant number of authors have published their works under pseudonyms, but not with the purpose of concealing their identity, as it was already known to the public (Tudor Arghezi is the pseudonym of Ion Theodorescu, George Bacovia of George Vasiliu, Gala Galaction of George Pișculescu, Ana Blandiana of Otilia Coman, etc.).

[30] Before the amendment of Law no. 8/1996 by Law no. 285/2004 for amending and supplementing Law no. 8/1996 on copyright and related rights, published in the Official Gazette of Romania no. 587/30.06.2004, the discussed act constituted an offense according to art. 141.

consent and without payment of remuneration, except in the following cases:

- if it constitutes a private transformation, not intended for and not made available to the public;
- if the result of the transformation represents a caricature, parody, or pastiche, provided that the result does not create confusion regarding the original work and its author;
- if this transformation is imposed by the purpose of authorised use by the author;
- if the result of the transformation constitutes a summary presentation of works for educational purposes, with the indication of the author.

The work, as it represents the expression of its author's personality, must be brought to the public's attention in the form decided by the author[31].

Respect for the integrity of the work primarily concerns the preservation of its integrity, with no modifications or additions to the work being made without the author's consent; then, respect for the integrity of the work also refers to its „spirit," meaning that the work should not be presented to the public in a context that devalues it[32].

Regarding this latter aspect of the right to respect for the integrity of the work, specialised literature has provided several examples such as the following: the use of religious music in advertising, the reproduction of a religious work in a political context, the use of characters in situations different from those desired by the author, the use of musical works in animated films, staging a theatre play by assigning roles to actors of a different gender than indicated by the author, the removal or addition of a character in a photograph, coloring a black and white photograph, etc[33].

In case law, it has been considered that violations of the right to respect for the integrity of the work include, for example, a faulty translation into a foreign language and the publication of excerpts from a work that distort its general idea[34].

However, including a disclaimer by the producer on the film's credits or a public debate about a work have not been considered violations of the right to respect for the integrity of the work[35].

In the case of anonymous works, legal doctrine has considered that disregard for the integrity of the work is not likely to cause harm to the honor or reputation of the author since the author's identity is not known to the public. [36]

As for doctoral theses, the publisher cannot, on the occasion of publication, modify their text by adding or removing passages or by changing the order of sections or modifying the title. The scientific coordinator, however, during the verification of the doctoral thesis, has the right to provide guidance to the doctoral candidate regarding the manner of drafting the thesis.

After the author's death, the exercise of the right to respect for the integrity of the work is transferred to the heirs, under the conditions of civil law, without a time limit, according to art. 11 para. (2) of Law no. 8/1996.

As for limiting the right to respect for the inviolability of the work, when the right to use it has been assigned, the assignee has the obligation not to harm the integrity of the work, but there may be certain limitations determined by the nature of the assigned right, the type of work, and the contractual provisions regulating the use of the work.

Thus, if a contract for editing a work has been concluded between the author and the publisher, the publisher has the right to correct grammatical, syntactical, spelling, and punctuation errors, but not the author's style[37]. The aforementioned applies equally if a doctoral candidate decides to publish their thesis through a publisher. We do not contest the editor's ability to bring to the author's attention any errors in content, including reasoning, purportedly present in the doctoral thesis to be published, but the rectification or modification of the text can only be carried out exclusively by the author or with their authorization.

Similarly, in the case of scientific works, including doctoral theses, the updating of the work is permitted[38], which is not considered a disregard for the right to respect the inviolability of the work, as long as the update does not alter the author's ideas, theories, or concepts.

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[31] V. Roș, D. Bogdan, O. Spineanu-Matei, *op. cit.*, p. 220.

[32] *Idem*, p. 220 - 221.

[33] V. Roș, *op. cit.*, p. 305.

[34] The High Court of Paris, December 6, 1976, in A. Bertrand, *Le droit d'auteur et les droits voisins*, 2nd ed., Dalloz, Paris, 1999; The Court of Appeal of Paris, October 10, 1957, in A. Lucas, H.-J. Lucas, *Traité de la propriété littéraire et artistique*, Litec, Paris, 1994, cited by V. Roș, D. Bogdan, O. Spineanu-Matei, *op. cit.*, p. 222.

[35] V. Roș, *op. cit.*, p. 306.

[36] *Ibidem*.

[37] *Idem*, p. 307.

[38] I. Macovei, *op. cit.*, p. 451.

5.5. Right to Withdraw the Work [art. 10 letter e) of Law no. 8/1996]

The right to withdraw the work concerns the prerogative of the author to withdraw it from use, regardless of the reason, after having previously made it known to the public. The reason cannot be subject to court censorship; however, third parties harmed by the author's exercise of the right of withdrawal have the right to compensation, respecting the conditions of the law.

In specialised literature, prior to regulation by Law no. 8/1996, exercising the right to withdraw the work unconditionally, without the existence of well-founded reasons, elicited several opinions regarding the limits of this moral right of the author.

In a first opinion[39], it was considered that after the contract was perfected by which the author exercised the right of disclosure, meaning bringing the work to the attention of the public, the right of withdrawal should be limited by the binding force of the respective contract. It is incumbent upon the author to prove the existence of well-founded reasons for exercising this right, with the reasons subject to judicial censorship.

In a second opinion[40], it is considered that the right of withdrawal is an absolute right, which imposes the obligation of its respect by all legal subjects, without the possible reasons invoked by the author in deciding to exercise this moral right being subject to judicial censorship.

In cases of co-authorship, the right of withdrawal of one author may conflict with the disclosure right of the other authors[41]; the solution proposed in legal doctrine is to condition the exercise of the right of withdrawal on the existence and proof of well-founded reasons, which will be assessed concretely by the courts[42].

However, this principle issue does not arise in the case of doctoral theses, which are not produced in co-authorship; instead, if after the drafting of the doctoral thesis, the candidate decides to make modifications with another author, and the work thus modified will be published in co-authorship, the raised problem becomes relevant.

Also concerning the doctoral thesis, in the event that the candidate has decided to publish it, therefore, once they have exercised their right of disclosure, they can decide to withdraw the thesis from civil circulation if it has already been published or they can oppose its publication after the editing contract has been perfected, in both cases compensating the publisher, according to the law.

After the author's death, the exercise of the right of withdrawal does not transfer to the heirs, letter e) being excluded from the enumeration of art. 11 para. (2) of Law no. 8/1996. Therefore, the author's heirs cannot reverse his decision to disclose his work to the public.

6. Conclusions

The research provided a general understanding of the legal framework surrounding doctoral theses, exploring the definitions, moral rights, and practical implications for authors.

The findings of this study are expected to help anyone interested in attempting to write a doctoral thesis or anyone interested in finding out if a doctoral thesis is at fault from a copyright protection point of view. This research seeks to promote academic integrity, foster responsible research practices, and mitigate instances of plagiarism.

Future research on the matter could delve deeper into specific aspects of copyright law relevant to doctoral theses, such as the digital dissemination of academic works, international comparative analyses of copyright and moral rights regimes, and the evolving role of open access initiatives in scholarly publishing.

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