

Involvement of the University Ethics Commissions regarding the existence of plagiarism from different perspectives: MEC Order no. 5229/2020 and ME Order no. 5255/2021

Implicarea Comisiilor de etică universitară cu privire la existența plagiatului din diferite perspective: Ordinul MEC nr. 5229/2020 și Ordinul ME nr. 5255/2021

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Abstract: The preoccupation of the Romanian Ministry of Education regarding ethics and integrity in higher education began with the highest level of studies, the doctoral studies. In time, the standards and implementation of anti-plagiarism mechanisms were also adapted to the master's and bachelor's works, in parallel with their introduction as a compulsory discipline in the university curriculum as „*Ethics and Integrity*”. The first measures were adopted in 2016 were to verify and sanction plagiarism in Doctoral Theses on the occasion of their completion and public defense. In 2021, based on the rules established in 2016, the central authorities retroactively extend this rule for all doctoral theses defended since 1990, through the mechanism of identification and verification of similarities between theses. At the same time there was the development of the platform with public access to all doctoral theses, a platform supported by the Portal Integrated Educational Register (<https://rei.gov.ro>), motivated by the need to increase transparency in the field of academic integrity. These administrative measures, although being applied retroactively and anachronistic to the previous procedures, try to bring equity in the verification of doctoral theses from the perspective of similarities.

Keywords: *plagiarism, similarities, platform, ethics, university ethics commission*

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Rezumat: *Preocuparea Ministerului Educației din România privind etica și integritatea în învățământul superior a început cu cel mai înalt nivel de studii, studiile doctorale. În timp, standardele și implementarea mecanismelor antiplagiat au fost adaptate și la lucrările de master și de licență, în paralel cu introducerea lor ca disciplină obligatorie în programa universitară ca „etică și integritate”. Primele măsuri care au fost adoptate în 2016 au fost verificarea și sancționarea plagiatului în Tezele de Doctorat cu ocazia finalizării și publicării acestora. În anul 2021, în baza regulilor stabilite în 2016, autoritățile centrale extind retroactiv această regulă pentru toate tezele de doctorat susținute începând cu anul 1990, prin mecanismul de identificare și verificare a asemănărilor dintre teze. Totodată a avut loc dezvoltarea platformei cu acces public la toate tezele de doctorat, platformă susținută de Portalul Registrului Educațional Integrat (<https://rei.gov.ro>), motivată de necesitatea creșterii transparenței în domeniul integrității academice. Aceste măsuri administrative, deși sunt aplicate retroactiv și anacronic procedurilor anterioare, încearcă să aducă echitate în verificarea tezelor de doctorat din perspectiva asemănărilor.*

Cuvinte cheie: *plagiat, similitudine, platformă, etică, comisie de etică universitară*

1. Compliance with ethical principles in scientific research in Romanian universities and research institutes

In today's society with new information technologies and unlimited access through the Internet to different sources and bibliographic resources, the concern for preventing and combating plagiarism in scientific research, but also educational, has become a *desideratum* in the development of a culture of scientific integrity, which both legislatively and administratively higher education institutions are responsible to develop. And because the imposition of a conduct is done both through good practices implemented through institutional strategies, but also through the application of sanctions for violating the rules, higher education institutions have built and implemented their own regulations (there are also separate provisions on university ethics in the University Charter) and instruments in the context in which the Education Law no. 1/2011 (LEN) defines the role and attributions of the University Ethics Commission in academic activity (Law, 2011). The activity of verifying and ascertaining the violations of the ethical principles of these institutional commissions is completed at central level with the activity of the Council for Ethics and Management of University (CEMU), respectively of the National Council for Ethics of Scientific Research, Technological Development and Innovation (CNECSDTI), about the competences and attributions of which we also find regulations in the education legislation (art. 217-218, LEN).

Academic integrity, a fundamental organizational value in the academic environment, translates into the public responsibility assumed by higher education institutions in the sense of observing their own policies of equity and academic ethics

contained in the University Charter itself, the second part of which is the Code of Ethics and Professional Deontology (art.124 reported to art.128 para.2 LEN). Taking into account the scientific research component of the teaching staff norms but also of the activity of the students from the three university study cycles, in the codes of ethics of the Romanian universities (UNIVBUC, 2020; ASE, 2020; UBB, 2013) we unanimously find the definition and criminalization of plagiarism as a violation of the academic integrity, being either of a deliberate nature, being carried out with awareness and intention to deceive, or accidentally. The definition is in accordance with the rule of Article 4 para. (1) lit. d) of Law no. 206/2004, normative act on good conduct in scientific research activity adopted before the current law on national education (Law, 2004).

Although there is no minimum mandatory code of ethics for higher education institutions, but only the legal obligation for this code of ethics to be part of the University Charter, Romanian universities have adopted since 2011 this code of ethics with the revision of the books according to the new law on education (Law, 2011). Thus, we find in all codes of academic ethics the principle of integrity transposed by the obligation of intellectual correctness and honesty of teachers in their activity - Chapter II from UNIVBUC Code of ethics - (UNIVBUC, 2020) or by moral and professional integrity along with respect for scientific probity - art. 78 para.1 letter b) and letter e) in ASE Code of ethics - (ASE, 2020), respectively the statement as fundamental principles of intellectual integrity and honesty - art. 14-31 of UBB Code of Ethics - (UBB, 2013), to name just a few concrete examples.

In all codes of university ethics, plagiarism is criminalized as a serious violation of university ethics, with regard to both the activity of teachers and students, with the university authority getting its competences in analyzing and sanctioning deviations from ethics as defined in the University Ethics Commission.

As per the studies of various social organizations (ANOSR, 2016) and media materials (Bechir, 2016), sometimes with political biases, but also taking into account the official report of the relevant ministry (MEN, 2018), we see without a doubt an upward evolution at national level of the number of students in cycle III (doctoral studies) with an average of approximately 19,000 students / academic year in the period 2013-2018 (on the background of expansion and doctoral fields) and 1800-1900 scientific PhD titles annually awarded in the period 2016-2017. The peak of the PhD titles issued was reached in 2012 (the generation registered in 2009, on the old form of the education legislation) when 6,258 PhD degrees were issued (Bechir, 2016), at which time, against the background of plagiarism scandals especially in the cases when the scientific title was awarded to a political person, the annual number of doctoral theses validated by The National Council for the Attestation of University

Titles, Diplomas and Certificates (CNATDCU) in order to issue the scientific title has begun to substantially reduce.

Since scientific activity does not mean only the doctoral studies in universities, but also the articles and scientific research materials of the teaching staff in higher education, but also of the research staff of the national research institutes, obviously the problem of the integrity of the scientific research activity is one of the principles of good conduct mentioned and guaranteed in their activity and by the national research institutes in different fields.

Although from 2020 until now, according to GEO no. 212/2020, the research institutes are subordinated to the Ministry of Research, Innovation and Digitalization (Ordinance, 2020), by splitting the research component from the former ministry of education to which the corresponding component in the field of communications from the former ministry of transport, infrastructure and communications was attached, the activity of these national institutes is regulated by the general legislation of research, which includes as it appears on the website of the relevant ministry (<https://www.research.gov.ro/ro/articol/1021/legislatia-sistemului-de-cercetare>) in addition to the Law on National Education no.1/2011, Law no.319/2003 on the Statute of research and development personnel, Government Ordinance no. 57/2002 on scientific research and technological development and of course the Law no. 206/2004.

Thus, in the codes of ethics of the national research institutes (most of them revised in 2021 based on the guide elaborated by CNECSDTI (CNECSDTI, 2020)) we find the same principles regarding the integrity and honesty of the researcher regarding his own activity and the observance of the contribution of predecessors, competitors or partners, for example: art.13-17 (INCDSB, 2021), chapter 3 and 4 (INCDMTM, 2009), art.10-13 and art.37 (ICF, 2021). Also, the institutional authority in the research institutes that watch over the observance of the standards of ethics and integrity is the ethics committee.

Even in the case of codes of ethics at the level of research institutes, there is no mandatory minimum code to be taken over in its own regulations by the institutes, although in 2021 the CNECSDTI, currently under the authority of the Ministry of Research, Innovation and Digitization, elaborated in November 2020 a Guide to Integrity in Scientific Research (CNECSDTI, 2020). This document with the value of recommendation provides in a detailed and objective way, unlike any other regulatory or administrative sources that we have analyzed in this material, a series of mechanisms and principles in identifying plagiarism in scientific papers (chapter 3-5 in CNECSDTI Guide) that can be useful to any ethics committee.

Analyzing the activity of the ethics commissions in the verification of complaints regarding plagiarism in scientific papers, whether electronic tools are

used to verify similarities, such as verification programs in the case of doctoral theses, or objectively applying principles from the CNECSDTI Guide (CNECSDTI, 2020), leads us to the conclusion that in the analysis of the existence of plagiarism must be involved, in addition to the members of the ethics committee, an expert from the field to which the analyzed work refers, who also has knowledge specific to the field and who can perform much better a qualitative analysis, not only by reference to strictly technical criteria that can be applied by the members of the analysis committee.

As for the need for a qualitative analysis by an expert in the respective field to be carried out after an analysis through electronic programs for the identification of similarities, we support it as being appropriate for the final decision on plagiarism, especially with reference to the verification of the works in the legal field, thus being in line with the recommendation of the CNECSDTI Guide – chapter 5.4. letter b) (CNECSDTI, 2020).

2. The activity of the University Ethics Commission on preventing and combating plagiarism regarding doctoral theses

About the regulation of the activity of the councils at central level and the need to adapt and harmonize the secondary legislation on quality and ethics norms in research, there are lately legal reports and analyses (ANOSR, 2016, p.11-15; Salcă, Manea, 2021, p. 32-43), which is why in this article we propose to analyze by comparison the activity and competence of the university ethics commission established by the two administrative acts of the relevant ministry of the consecutive years 2020 and 2021 regarding the doctoral theses, as scientific research papers.

In fact, initially, the involvement of the University Ethics Commission in the procedure of prior verification of the public defence of a doctoral thesis was made since 2016, also by administrative act, respectively by Government Decision no. 134/2016 in the sense that after the technical verifications through software / platforms regarding the existence of the similarities of a thesis in the public defence procedure or upon the notification of the members of the public support committee, the procedure is suspended and the ethics commission is invested to verify the existence or not of plagiarism. Based on a decision of the University Ethics Commission regarding the non-confirmation of plagiarism, the procedure of public defence of the doctoral thesis continues, respectively on the basis of a decision to confirm plagiarism, the University Ethics Commission will apply sanctions both with regard to the paper and with regard to the author of the paper, the doctoral student, the doctoral supervisor not being the subject of research in this procedure.

Comparative analysis was used because the two administrative acts issued in the same field regarding the increase of the integrity of scientific research from the

perspective of quality and observance of ethical principles by integrating the contribution of other authors / professors in the development of an original idea when writing scientific papers, in fact concerns two distinct activities: OMEC no. 5229/2020 refers to the verification of plagiarism regarding a thesis PhD in the procedure of completion (for public defense), while OME no.5255/2021 involves the verification at present by the University Ethics Commission of the suspicion of plagiarism regarding a thesis already defended, from the period 1990-2016.

Although the Commission for University Ethics has competences regarding the verification of plagiarism complaints on scientific papers regardless of the date of publication of the paper, as there is no statute of limitations for the act of plagiarism (which we support and consider appropriate for quality assurance), the fact that in the procedure regulated by OME no. 5255/2021 is invested the ethics commission to verify a thesis publicly supported (Order, 2021), so also verified by the specialized authorities at central level, including CNATDCU and to give a verdict on whether or not to confirm plagiarism, gives the university ethics commission an authoritarian position on CNATDCU.

CNATDCU acquires through OMEC no. 5229/2020 in the thesis evaluation procedure competences regarding the identification of plagiarism and regarding the activity of the doctoral student, considering the electronic platform managed by CNATDCU on which the entire activity from during the doctoral studies of the doctoral student, but the verification of the articles published by the doctoral student, as well as of the didactic materials within the doctoral programs (specialist reports) was and remains within the competence of the University Ethics Commission if there are reports of suspected plagiarism, the doctoral student being part of the academic community.

Taking into account the position of the University Ethics Commission and the competence of such a verification carried out, we consider that it would have been appropriate to specify in OMEC no. 5229/2020 that such a verification carried out by the University Ethics Commission acquires the authority of *res judicata* (Order, 2020).

3. Regulated transparency in the activity of verifying the observance of university ethics and deontology in the elaboration of doctoral theses

Against the background of the scandals supported by the media regarding the plagiarism of doctoral theses in the case of the characters in the political sphere, but also as a result of the very large number of doctoral theses confirmed after the 2000s, the education ministry adopted a national strategy for preventing plagiarism regarding doctoral theses. Thus, it is implemented the obligation of higher education

institutions in which doctoral theses were defended in 1990-2016 to start a transparent and objective procedure to verify the observance of university ethics and deontology in the elaboration of doctoral theses. The procedure refers to the entire period 1990-2016 which includes also the period 2010-2014 when non-reimbursable European funds for financing doctoral studies through doctoral scholarships have been allocated to Romania, thus making this university study programs more attractive.

Thus, OME no. 5255/2021 is issued through which universities are obliged to establish their own strategies for preventing and combating plagiarism in the institution, but at the same time retroactively to carry out a verification of doctoral theses from the period 1990/2016 (the year of introducing the electronic procedure for verifying doctoral theses with the platform of similarities through the Government decision no. 134/2016 (Decision, 2016)) from the perspective of observing the rules of ethics and deontology in the drafting of these papers. Thus, the universities were obliged to set up an administrative service/office to be responsible for the digitization of doctoral theses from the period 1990-2016, most of them being only in print (or mail) format, on paper, and with the format thus digitized to check in the platforms of similarities in which the doctoral theses are currently verified before the public defense.

Taking into account the technological limitations, in the sense that the similarity platform carries out checks by comparing the analyzed text with those from the databases currently existing, it is not possible to select at the level of the databases from the period of the presentation of each doctoral thesis, as well as the fact that the quality standards and the criteria for citing certain papers differ from one period to another, from one institution to another, the results thus obtained through the procedure imposed by OME no. 5255/2021 are left to the appreciation of each university that will draw up a final report to be submitted to the relevant ministry (Order, 2021).

At the same time, OME no. 5255/2021 left it to the discretion of CNATDCU and ensured the independence in its actions, the possibility of verifying the doctoral theses from the period 1990-2016 on the basis of a referral, which implies a duplication of verifications, all the more so as the verification carried out by CNATDCU, according to its own regulations, differs from the verification procedure carried out by the ethics committee which operates, inter alia, also on the adversarial principle of the parties, thus ensuring a real and effective right of defence.

This approach is supported by the Ministry, which, at central level, has also started the procedures for the configuration of a public platform of the Integrat Educational Register (REI) where the doctoral theses defended in higher education institutions from 2016 to 2022 can be accessed in full format (Platforma REI (gov.ro)),

for which the authors have not opted or the term of separate publication of the thesis has expired, in total there are about 13,000 works loaded.

The REI database will be extended as the implementation of OME no. 5255/2021 is carried out at the level of all universities and doctoral institutions that will digitize all their doctoral theses.

4. Conclusions

According to the general norms of the Education Law but also of Law 206/2004, the competence in researching and confirming plagiarism regarding a scientific paper (without distinguishing between a doctoral thesis and article / research material published in specialized journals) lies with the Ethics Commission (the commission for university ethics in the case of higher education institutions), a body entitled as based on the findings and individualization of the context of plagiarism (procedure that includes the hearing of the complained party) to apply sanctions, including with effect on the plagiarized work but also on the author.

Within the procedure for awarding the scientific title of Doctor, based on the doctoral thesis publicly defended after verifications and analyses of the text in different commissions, we state that in respect of doctoral theses publicly defended at the level of the doctoral school, competences in the evaluation of doctoral theses is acquired by the CNATDCU, through the administrative act (OMEC no. 5229/2020) competences in the evaluation of doctoral theses from the perspective of professional ethics standards, including the existence of plagiarism within the thesis or the activity of the Doctoral student.

This final verification carried out by the CNATDCU evaluators may occur on a previous check on the suspicion of plagiarism in the analysis phase of the doctoral thesis upon the notification of one of the members of the guidance committee or of the public support committee, and the Ethics Commission at the level of the doctoral organizing institution that carried out the verification in advance did not confirm the plagiarism, but the verdict of the CNATDCU evaluators is definitive and somewhat authoritative because it is not based on an analysis carried out in contradiction with the one in question, as the CNATDCU evaluators are experts in the field of commission and doctoral studies. Thus, the verdict of the CNATDCU evaluators confirming plagiarism will lead to the rejection of the thesis (sanction applied to the act of plagiarism), and the General Council of CNATDCU will analyze the responsibility of the doctoral supervisor or of the doctoral school, being able to decide in the sense of applying one of the administrative sanctions provided for in art.170 LEN: the withdrawal of the quality of doctoral supervisor or the withdrawal of the

accreditation of the doctoral school, so the sanctions do not stop only at the level of the doctoral thesis and of the student, the author of the thesis.

Regarding the involvement of the ethics commission in the analysis of the complaint or suspicion of plagiarism based on the provisions of OME no. 5255/2021, we find that from the new CNATDCU can carry out a verification in parallel with that of the ethics commission of the university, the checks being independent and not having the authority of *res judicata* the conclusions of the ethics commission, because the analysis carried out by CNATDCU is justified based on the mechanisms of quality assurance in scientific research, and on the clearly superior position of the National Council towards the university ethics commission.

In both cases we consider that the analyses on the existence of plagiarism carried out by the CNATDCU evaluators, experts in the scientific field as I said before, are final (although as an administrative act the CNATDCU decision can be challenged in the administrative court) and authoritative based exclusively on technicality, practically the perpetrator having no possibility of direct defense, but only on the basis of appeal against the decision of confirming plagiarism.

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