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## **The Doctoral Student's Responsibility for Violation of Ethical Standards During Doctoral Studies**

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**Abstract:** Intellectual property law enjoys the most expansive and branching evolution of the last century, both in terms of national regulations and in terms of signed international conventions and adopted Community directives, as evidenced even by established organizations whose object is this. branch of law. Intellectual property rights and copyright are widely recognized in the international arena, and the field of intellectual property is the one in which the greatest damage is caused by numerous infringements of copyright or assignment of rights, as well as the economy. States in general. This is because the very essence of the right to intellectual property is a condition for the progress of humanity, being a fundamental element that underlies the process of development of society.

**Keywords:** intellectual property; copyright; infringement

### **Introduction**

Intellectual creation is a topic of great interest, the transformations in the evolution of intellectual property rights being among the deepest, this being the direct consequence of technological progress on communication between people, in a narrow sense, and between the states of the world, in a larger sense (Lazăr, 1999, p. 3). In order to highlight the impact of these changes in the technological environment on intellectual property rights, we can easily say that they developed through the direct action of the technological revolution, an epoch-making moment being the appearance of the press in 1445, but also the revolution philosophical-political foundations that underpinned the awareness of individual rights and the ideology of freedom and judicial equality (Eminescu, 1994, p. 6).

The recognition of the international vocation of intellectual creation is closely linked to the need to ensure effective legal protection of copyright both in the countries of origin and in the territory in which they are exploited. International protection of intellectual property rights is currently achieved through two main procedures, namely the bilateral conventions by which two states regulate this type of protection in their regular legislative interactions, respectively the multilateral conventions by which international unions have been established in several Member States.

Thus, the main convention governing copyright is the Berne Convention for the Protection of Literary and Artistic Works. Completed following preparatory work for about 25 years, this convention covered eight Western European countries in September 1866 and was later supplemented by an addendum and

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an Interpretative Declaration signed in Paris in 1896 which has been the subject of a series of revisions aimed at extending protection to other works created by authors in various fields of activity, each revision being of particular importance materialized by increasing the number of Member States, which led to the establishment of the Union from Bern. Subsequently, given the need to develop the legislative framework in force at the time as well as the evolving states, a significant moment was the Review Conference convened in Paris in 1971, which drafted and adopted the Act of in Paris. Among the rules of this Act was the provisions intended to enable Member States to translate and reproduce, under the conditions of the international protection system established by the Union, works belonging to authors who are nationals of a Member State (Lazăr, 1999, p. 6). However, in 2000 the Berne Union was made up of 111 member states, Romania having been a member since 1927. By Decree 549 of July 1969, our country ratified the Stockholm Revision Act of 1967, and within the Romanian Office Copyright Act for Romania's addition to the 1971 Paris Convention Review Conference on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, and to the two International Geneva Conventions in Geneva. 1966, under the auspices of WIPO (Moisescu, 1997, p. 7).

Discussing now in a narrow sense the evolution of the Romanian legal regulations regarding the regime of intellectual property rights and their protection, the first law in our country that had as object the rights of authors of literary and artistic works was the Press Law of 1862 which was voted during the reign of Alexandru Ioan Cuza, which recognized the rights of writers, composers and creators of works of art to reproduce, sell or transfer their works. However, the reciprocal being valid, the law in question recognized these rights to foreigners as well, noting that they did not have the opportunity to benefit in Romania from the copyright that was recognized in their country of origin.

Following the timeline to the present, in 1923, the Law of Literary and Artistic Property was adopted in Romania, being considered at the time of its entry into force as one of the most complete and modern regulations on intellectual property law that ensures the protection of copyright separately from the completion of any formality but repealing the reciprocity of this type of protection in the case of citizens from abroad. According to that law, Article 2 provides that authors of literary or scientific works, composers, painters, illustrators, sculptors, architects and other creators of intellectual works enjoy the exclusive right to publish throughout their lives, represent or execute, authorized translations, adaptations, reproductions, exploits, donate or sell them or dispose of them by will. Moreover, this law stipulated a principle of great significance, namely that the moral right of the author over his creation was non-transferable and could not be waived but was transmitted to the heirs only after the death of the author and for a period of 30 years from the time of his death. From the moment of prescription of this term of 30 years, from the moment when the work was no longer the object of an exclusive right, it enters the public domain, and the right of control that formed the essence of the moral right of the author enters under the aegis of the Romanian Academy<sup>1</sup>.

Currently, the legislative framework of intellectual property rights is enjoying a significant expansion and evolution, recalling on this occasion the Law no. 8/1996 on copyright and related rights. The normative acts adopted by the legislator during the last years have as purpose the regulation of the legal regime of the rights resulting from the creation of the authors from different fields of activity as well as to ensure the necessary legal protection. Thus, we recall that Article 1 of the above-mentioned law stipulates the following: *“the copyright of a literary, artistic or scientific work, as well as any such works of intellectual creation is recognized and guaranteed under the conditions of this law. This right is related to the person of the author and includes moral and material attributes. The work of intellectual*

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<sup>1</sup> Annals of the Romanian Academy, vol. XXIX, Memoirs of the history section.

*creation is recognized and protected independently of bringing it to public knowledge, by the simple fact of its realization, even unfinished*". We can thus conclude that the provisions of this law provide the necessary legal protection for intellectual creations regardless of the field to which they belong.

## **2. Regulations of Ethics and Deontology in Scientific Research.**

There is an upward trend in the world in terms of the requirement for ethics in scientific research represented by the series of international treaties, pacts or documents with direct reference to the explanation of the rules in a broad framework, the requirements of international organizations and bodies as an expression of the involvement and engagement of states at the highest levels, including the European Commission, the Organization for Economic Co-operation and Development, UNESCO, Forum-Forum of National Ethics Councils. In a context of maximum necessity, the General Code of Ethics in Scientific Research is elaborated, which considers the international regulations in the field, the legislation of the European Union and its standards on ethics in scientific research. The motivation for the elaboration of such norms of ethics and deontology derives itself not only from the legislative expansion of the regulations of the rights on intellectual creations, but also from the technological evolution and implicitly of the means of infringing the rights on intellectual property.

Thus, this code aims to specify the principles, responsibilities and procedures so that scientific research and innovation in Romania is carried out in accordance with the requirements of the European Knowledge Area and the ethical principles accepted by the international scientific community. The General Code of Ethics in Scientific Research classifies good conduct in scientific research, technological development and innovation in the units and institutions that are part of the national research and development system, in the entities and institutions that conduct research and development programs, as well as in the units that ensure the capitalization of the results of scientific research<sup>1</sup>.

Good conduct in scientific research includes in its extension a number of considerations such as acknowledgment of the law, guarantee of freedom in science, scientific research and education, observance of the principles of good scientific practice, assumption of responsibilities. The research and development units and institutions, as well as their employees have the obligation to comply with the legal norms and normative acts in force, which regulate the social relations that are born in the field of scientific research and innovation.

In this sense, Law no. 206/2004 on good conduct in scientific research, technological development and innovation stipulates from the first article good conduct in research and development activities as a set of rules of good conduct and procedures for their fulfillment. The status of doctoral student implies an extensive and rigorous scientific research materialized through a contribution of knowledge and development in the field of study that can be finalized through innovative legislative proposals, thus having a major impact on legislative progress in Romania.

In order to meet the requirements required by law throughout the scientific career of the doctoral student, the legislator regulates obligations whose observance ensures an honest approach in the Law no. 319/2003 on the status of research and development staff. Thus, in Article 24 of this law, there are listed a series of obligations with direct applicability in the conduct of all intellectual creations in doctoral studies, among which we mention the obligation to respect the ethics and deontology of research and development, to respect the rights of intellectual property and confidentiality agreed with the research

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<sup>1</sup> <https://cnecsdti.research.gov.ro/codul-national-de-etica/>.

collaborators, to carry out scientific activity without violating human rights and freedoms and to participate in the application of the results of their own development-research activity<sup>1</sup>.

Considering that the relationship is bilateral between the doctoral student and the doctoral school, the latter together with the doctoral supervisor have the obligation to inform the doctoral student about scientific, professional and university ethics, as provided by the legislator in Government Decision 681/2011 on approval of the Code of doctoral studies<sup>2</sup>. Thus, art.24 regulates the right of the doctoral school and IOSUD to take the necessary measures to prevent and sanction deviations from the norms of scientific ethics as well as in case of academic fraud, aspects that we will analyze in detail in the next section.

### **3. Deviations from Good Conduct in Research Activities During Doctoral Studies.**

The Romanian law on copyright and related rights aimed at establishing a system of protection of intellectual property rights by creating the necessary tools to prevent and punish in case of violation of these rights. In this sense, at the national level, a wide and complex legislative framework has been developed over the last century, establishing ways to protect and at the same time hold accountable and sanction those who disturb the rule of law through deviant conduct.

In this case, the Romanian legislator stipulates through a variety of normative acts the deviations from the good conduct in the scientific research activities of the doctoral students on the occasion of the elaboration of the reports, articles, scientific publications and finally of the doctoral thesis.

We will start the analysis of the phrase “good conduct” in the light of the regulations of Law no. 206/2004 on good conduct in scientific research, technological development and innovation with direct applicability on doctoral students, respectively on the preparation of scientific publications, essays and doctoral thesis. Thus, in the previously mentioned law we find in art.2 paragraph (2) the norms of good conduct in the research-development activity include “norms of good conduct in the activity of communication, publication, dissemination and scientific popularization”<sup>3</sup> by which the observance is required all the requirements throughout the doctoral student’s scientific career regarding the elaboration of all intellectual creations.

Furthermore, Law 206/2004 expressly provides for deviations from good conduct in scientific activity, but I will mention those with direct applicability on the status of doctoral student or auto plagiarism, the inclusion in the list of authors of a scientific publication of one or more co-authors who did not contribute significantly to the publication, active participation in violations committed by other PhD students, knowledge of violations committed by others and failure to notify the ethics committee or the National Ethics Council, co-authorship of publications containing falsified or fabricated data<sup>4</sup>. Moreover, Law 1/2011 regulates in art.310 serious misconduct in good conduct within scientific research and university activity as “plagiarism of the results or publications of other authors, making results or replacing results with fictitious data”<sup>5</sup>.

Using the information mentioned above, the doctoral student status implies a fortified conduct with well-impregnated values such as morality, ethics, honesty, modesty and respect for the academic institution

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<sup>1</sup> Law no. 319/2003 on the status of research and development staff, art.24, lit.a),b),h),j).

<sup>2</sup> H.G.681 / 2011 regarding the approval of the Code of doctoral studies, art.20.

<sup>3</sup> Law no. 206/2004 on good conduct in scientific research, technological development and innovation, art.2, alin.(2).

<sup>4</sup> Law no. 206/2004 on good conduct in scientific research, technological development and innovation, art.6.

<sup>5</sup> National Education Law no. 1/2011, art.310.

to which they belong and for the teachers who guide his entire scientific career during doctoral studies. Such a status, due to the rigors necessary to obtain it and the strict selection criteria, is a prestige for the doctoral student, being not only a contractual obligation within the doctoral school but also a moral and spiritual obligation to comply with all rules of ethics and deontology and thus, respect and humility through honest conduct.

The doctoral student, by his status, is presumed to be in good faith due to his academic and intellectual background which thus places him on a higher level in terms of knowledge. However, the accusations of the most common misconduct in scientific research, namely plagiarism, date back to ancient times, with a magnitude and historical complexity both from the point of view of the accused and on the diversity of the works in question. A relevant example is found in ancient Greece, where a well-known act of plagiarism was committed by Hermodorus, who became famous for stealing Plato's speeches, which he later traded abroad for his own benefit (Roş, 2004). What is striking in this situation is the humble attitude of Plato, under the scientific tutelage of Socrates, considering his entire work as the merit of his master, thus being an example in terms of conduct and relationship between teacher, in this case the doctoral and learned supervisor, respectively the doctoral student.

Briefly analyzing the phenomenon of plagiarism, the legislator defines the notion of plagiarism in Law no. 206/2004 in art. 4 as "the acquisition of ideas, methods, procedures, technologies, results or texts of a person, regardless of the way in which they were obtained presenting them as a personal creation". However, the debate on the tendency to include in the sphere of plagiarism the facts by which ideas or arguments belonging to another author are appropriated is recognized, this controversy being widely the subject of numerous debates which had as their finality the entry into force of certain provisions. slightly contradictory.

Considering statistics, another relevant historical example is presented by the author Leo Butnaru, who claims that statisticians found, in the case of the famous author W. Shakespeare, that out of 6,643 verses tested, about 1,171 of them were copied from other authors., while another 2,573 would have been processed or slightly retouched, leaving a total of 1,899 original lyrics. However, through the author's mastery, the lyrics acquired an indisputable artistic depth, due to his vision of the human personality and the world in general.

Having previously discussed the legal provisions regarding the deviations from the norms of good conduct committed by doctoral students in the elaboration of all works of intellectual creation, we find that there is a complex legislative framework that can attract ethical and deontological responsibility in case of manifesting a behavior contrary to good credits granted by the doctoral school at the time of enrollment of doctoral students. Despite what has been discussed, curiosity remains about the sanctions to be granted in such circumstances as well as about the competent authority in this area. However, these issues will be discussed in the next section.

#### **4. Competent Authorities and Sanctions Applicable in case of Violations of Ethical Standards during Doctoral Studies**

The notifications regarding the deviations from the norms of good conduct in the research and development activity of the doctoral students are analyzed according to the procedure described by Law no. 206/2004 on good conduct in scientific research, technological development and innovation under Article 4 in two stages, respectively the analysis prepared by the institution in which the respective

violations were committed by the ethics commission and the analysis at the National Ethics Council, aspects to be detailed in this section.

Thus, we start the analysis of the first stage by which a notification is brought to the public knowledge regarding the violation of the norms of good conduct of the doctoral students of the competent institution according to the National Education Law no. 1/2011, namely the university ethics commission. Pursuant to art. 306 of this law, the university ethics commission operates at the level of each higher education institution having as main attributions the analysis and solution of deviations from university ethics based on notifications or by self-notification, according to the Code of University Ethics and Deontology. annually on the situation of respecting the university ethics and the ethics of research activities, report which is presented to the rector and the senate of the university<sup>1</sup>. Regarding the composition of the university ethics commission, it is established by the university senate and approved by the rector, based on the proposals made by the members of the board of directors. Interesting and at the same time fair is the exception of incompatibility according to which persons holding the position of rector, vice-rector, dean, vice dean, administrative director, director of department or research-development unit cannot be part of the university ethics commission, as stipulated and the above-mentioned law.

Based on Law no. 206/2004, namely in art. 11, the procedure for solving the deviations notified to the university ethics commission is presented as follows. The analysis commission, as a component part of the ethics commission, prepares a report that will be approved by the latter commission, which communicates to the author of the notification in writing and publicly on the website of the institution within 45 calendar days. from the receipt of the notification, the appointment of the guilty persons as well as the sanctions applicable following the violation of the norms of good conduct, with the opinion of the legal advisor of the institution. The report of the analysis commission can be confronted at the National Ethics Council by the person or persons found guilty or by the author of the notification, thus entering the analysis of the second stage of resolving the complaints regarding the violations committed by doctoral students.

The National Ethics Council is an advisory body without legal personality established in order to coordinate and monitor the application of the rules of good moral and professional conduct in research and development activities as regulated in the above-mentioned law<sup>2</sup>. The members of the board are people with a well-known research activity, specialists in the legal field and in the field of research ethics and science. This body has among its main operating functions the follow-up of the application and observance by the research and development units and institutions as well as by the staff of these institutions of the legal provisions regarding the norms of moral and professional conduct. following the notifications or appeals or by self-notification, formulates opinions and recommendations regarding the ethical issues raised by the evolution of science and knowledge and issues decisions establishing the guilt or innocence of the person concerned, thus establishing the sanctions to be applied according to the law. We conclude the analysis of this section with the normative framework of the sanctions applicable to doctoral students who have been found guilty of committing misconduct in scientific research<sup>3</sup>. Therefore, according to the National Education Law no.1 / 2011 art.319, the sanctions that can be applied by the university ethics commission to doctoral students for violating university ethics are the written warning, expulsion or other sanctions provided by the Code of Ethics and University Ethics. Also, Law no. 206/2004 mentions in its turn a series of sanctions that can be applied in this case,

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<sup>1</sup> National Education Law no. 1/2011, art.306, alin.3.

<sup>2</sup> Law no. 206/2004 on good conduct in scientific research, technological development and innovation, art5.

<sup>3</sup> National Education Law no. 1/2011, art.323.

among which I will mention the withdrawal or correction of all published works by violating the rules of good conduct as well as the withdrawal of the doctorate graduates of doctoral studies. The sanctions in question shall be implemented by the dean or rector within 30 days of their establishment. Noting the importance and need to comply with all the requirements found in the Code of Ethics and University Ethics, I consider it essential to maintain a dignified, honest and serious conduct throughout doctoral studies and especially throughout life being an integrated part of the human personality, especially in the case of the status conferred by the membership of a renowned doctoral school.

## 5. Conclusion

From a historical point of view, the scientific world has been intensely concerned with the way in which ethics can be applied in science on a national level, but also internationally. The issue of the application of ethical constraints in the field of scientific research and science in general has been and will be a very hot topic in debates at all levels and especially among researchers. There is a very strong link between ethics and scientific research that can be seen as a reciprocal conditioning in the sense that ethics can impose by social will certain conditions in which scientific research must take place and in turn, ethics can be a subject of research. Moreover, the rigors required by respecting an ethical, deontological and honest conduct are presumed to be indisputably integrated in the personality of the doctoral student, who manifests aspirations in the process of materializing in scientific research and being also a representative of a higher intellectual level.

I believe that, throughout our scientific career in doctoral studies, we have a duty, through the elaboration and production of essays, scientific publications and doctoral theses, to give our intellectual creations, in addition to the specialized content, a personal imprint in which creativity is found. our humanism and mentality, contributing significantly to the development and scientific research in this field.

I conclude by saying that doctoral studies are a scientific approach chosen voluntarily, very difficult to accomplish and in which we must not neglect the purpose for which each doctoral student wanted this chance, as stated by Mathieu Bouviile: “Teaching students to write in order to avoid plagiarism is like learning to avoid falling: the purpose for which it is written is missing”.

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